

**MARKET CONDUCT EXAMINATION REPORT**

**OF**

**ELEPHANT INSURANCE COMPANY**

**AS OF**

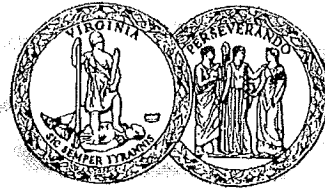
**AUGUST 31, 2011**

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

**Property and Casualty Division  
Market Conduct Section**

# COMMONWEALTH OF VIRGINIA

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

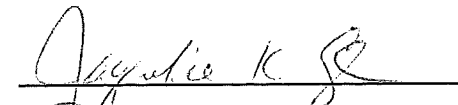


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## STATE CORPORATION COMMISSION BUREAU OF INSURANCE

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

**IN WITNESS WHEREOF**, I have  
hereunto set my hand and affixed  
the official seal of this the Bureau  
at the City of Richmond, Virginia,  
this 19th day of October, 2012.

  
\_\_\_\_\_  
JACQUELINE K. CUNNINGHAM  
Commissioner of Insurance

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STATE CORPORATION COMMISSION  
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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 Elephant Insurance Company at its office in Glen Allen, Virginia.

The examination commenced January 23, 2012 and concluded April 13, 2012. Andrea D. Baytop, William T. Felvey, Karen S. Gerber, Ju'Coby Hendrick, and Gloria V. Warriner, examiners of the Bureau of Insurance, and Joyclyn M. Morton, Market Conduct Supervisor of the Bureau of Insurance, participated in the work of the examination. The examination was called in the Examination Tracking System on October 4, 2011 and was assigned the examination number of VA218-M1. The examination was conducted in accordance with the procedures established by the National Association of Insurance Commissioners (NAIC).

## COMPANY PROFILE

Elephant Insurance Company was incorporated under the laws of Virginia on June 5, 2009 and commenced business on September 24, 2009. The company is the United States expansion of the Admiral Group, plc, which is located in Cardiff, Wales. The company is based in Glen Allen, Virginia.

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 September 24, 2009.

| <b>EIC</b>                  |           |
|-----------------------------|-----------|
| <b>NAIC Company Number</b>  | 13688     |
| <b>LICENSED IN VIRGINIA</b> | 9/24/2009 |
| <b>LINES OF INSURANCE</b>   |           |
| Accident and Sickness       |           |
| Aircraft Liability          |           |
| Aircraft Physical Damage    |           |
| Animal                      |           |
| Automobile Liability        | X         |
| Automobile Physical Damage  | X         |
| Boiler and Machinery        |           |
| Burglary and Theft          |           |
| Commercial Multi-Peril      |           |
| Credit                      |           |
| Farmowners Multi-Peril      |           |
| Fidelity                    |           |
| Fire                        |           |
| General Liability           | X         |
| Glass                       |           |
| Homeowner Multi-Peril       |           |
| Inland Marine               |           |
| Miscellaneous Property      |           |
| Ocean Marine                |           |
| Surety                      |           |
| Water Damage                |           |
| Workers' Compensation       |           |

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

| COMPANY AND LINE                  | PREMIUM VOLUME | MARKET SHARE |
|-----------------------------------|----------------|--------------|
| <b>Elephant Insurance Company</b> |                |              |
| Automobile Liability              | \$4,372,380    | .18%         |
| Automobile Physical Damage        | \$1,915,454    | .11%         |

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



## SCOPE OF THE EXAMINATION

The examination included a detailed review of the company's lines of business written in Virginia for the period beginning September 1, 2010 and ending August 31, 2011. This review included rating, underwriting, policy terminations, claims handling, forms, policy issuance\*, statutory notices, agent licensing, complaint-handling, and information security practices. The purpose of this examination was to determine compliance with Virginia insurance statutes and regulations and to determine that the 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.

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

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

### STATISTICAL SUMMARY

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

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

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

**Population**  
**Sample Requested**

| AREA                                 | <u>EIC</u>         | <u>TOTAL</u>       | <u>FILES</u><br><u>REVIEWED</u> | <u>FILES NOT</u><br><u>FOUND</u> | <u>FILES WITH</u><br><u>ERRORS</u> | <u>ERROR</u><br><u>RATIO</u> |
|--------------------------------------|--------------------|--------------------|---------------------------------|----------------------------------|------------------------------------|------------------------------|
| <b><u>Private Passenger Auto</u></b> |                    |                    |                                 |                                  |                                    |                              |
| New Business                         | <u>10581</u><br>41 | <u>10581</u><br>41 | 41                              | 0                                | 41                                 | 100%                         |
| Renewal Business                     | <u>1171</u><br>27  | <u>1171</u><br>27  | 27                              | 0                                | 27                                 | 100%                         |
| Co-Initiated                         | <u>724</u><br>30   | <u>724</u><br>30   | 26                              | 0                                | 17                                 | 65%                          |
| Cancellations <sup>1</sup>           |                    |                    |                                 |                                  |                                    |                              |
| All Other Cancellations <sup>1</sup> | <u>10534</u><br>35 | <u>10534</u><br>35 | 33                              | 0                                | 15                                 | 45%                          |
| Nonrenewals <sup>1</sup>             | <u>65</u><br>10    | <u>65</u><br>10    | 6                               | 0                                | 3                                  | 50%                          |
| <b><u>Claims</u></b>                 |                    |                    |                                 |                                  |                                    |                              |
| Auto <sup>2</sup>                    | <u>1319</u><br>77  | <u>1319</u><br>77  | 73                              | 0                                | 42                                 | 58%                          |

Footnote 1: The company was unable to provide accurate population files to reflect the cancellations processed during the examination period.

Footnote 2: Four files were centrally billed towing claims and not reviewed.

## PART ONE - THE EXAMINERS' OBSERVATIONS

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

### RATING AND UNDERWRITING REVIEW

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

The Bureau requested 41 new business policy files for review. The examiners reviewed all of these files. As a result of this review, the examiners found overcharges totaling \$904.50 and undercharges totaling \$521.62. The net amount that should be refunded to insureds is \$904.50 plus six percent (6%) simple interest.

- (1) The examiners found 67 violations of § 38.2-305 A of the Code of Virginia. The company failed to specify in the insurance policy all of the information required by the statute.
  - a. In 53 instances, the company failed to specify the policy effective time and the Towing and Labor coverage limit on the declarations page.
  - b. In 14 instances, the company failed to list all forms applicable to the policy on the declarations page.
- (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 declarations page incorrectly stated Medical Expense limits could not be combined and showed a discount that was not applicable to the policy.
- (3) The examiners found seven violations of § 38.2-610 of the Code of Virginia.
  - a. In six instances, the company failed to provide the insured written Notice

of an Adverse Underwriting Decision (AUD). The company issued the policy with a higher premium based upon information that differed from that which the insured furnished on the application and failed to provide the insured an AUD notice.

- b. In one instance, the company failed to provide the specific reason for the AUD.
- (4) The examiners found two violations of § 38.2-1905 A of the Code of Virginia. The company failed to notify the insured in writing that his policy had been surcharged for an at-fault accident.
- (5) The examiners found two violations of § 38.2-1906 A of the Code of Virginia. The company failed to file all rates and supplementary rate information with the Bureau.
- (6) The examiners found 27 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 nine instances, the company failed to use the correct discounts and /or surcharges.
  - b. In seven instances, the company failed to apply the correct surcharge points for accidents and/or convictions.
  - c. In three instances, the company failed to use the correct symbols.
  - d. In six 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 one instance, the company failed to rate the policy based upon credit information obtained.

**Automobile Renewal Business Policies**

The Bureau requested 27 renewal business policy files for review. The examiners reviewed all of these files. As a result of this review, the examiners found overcharges totaling \$487.37 and undercharges totaling \$522.15. The net amount that should be refunded to insureds is \$487.37 plus six percent (6%) simple interest.

- (1) The examiners found 46 violations of § 38.2-305 A of the Code of Virginia. The company failed to specify in the insurance policy all of the information required by the statute.
  - a. In 36 instances, the company failed to specify the policy effective time and the Towing and Labor coverage limit on the declarations page.
  - b. In ten instances, the company failed to list all forms applicable to the policy on the declarations page.
- (2) The examiners found seven violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions or terms of the insurance policy. The declarations page incorrectly stated Medical Expense limits could not be combined and showed a discount that was not applicable to the policy.
- (3) The examiners found three violations of § 38.2-1906 A of the Code of Virginia. The company failed to file all rates and supplementary rate information with the Bureau.
- (4) The examiners found 31 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 13 instances, the company failed to use the correct discounts and /or surcharges.
  - b. In seven instances, the company failed to apply the correct surcharge points for accidents and/or convictions.

- c. In five instances, the company failed to use the correct tier eligibility criteria.
- d. In four instances, the company failed to use the correct base and/or final rates.
- e. In two instances, the company failed to rate the policy based upon credit information obtained.

### TERMINATION REVIEW

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

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

#### NOTICE MAILED PRIOR TO THE 60<sup>TH</sup> DAY OF COVERAGE

The Bureau requested 20 automobile cancellations that were initiated by the company where the company mailed the notices prior to the 60th day of coverage in the initial policy period. The examiners reviewed 18 of these files. One file was cancelled by the insured and one file was cancelled after the 60th day of coverage and not reviewed. 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 nine violations of § 38.2-2208 B of the Code of Virginia.
  - a. In one instance, the company failed to retain a copy of the cancellation notice sent to the insured.

- b. In three instances, the company failed to retain proof of mailing the cancellation notice to the insured.
  - c. In one instance, the company failed to provide proper notice of cancellation to the lienholder.
  - d. In three instances, the company failed to obtain valid proof of mailing the cancellation notice to the lienholder.
  - e. In one instance, the company failed to retain proof of mailing the cancellation notice to the lienholder.
- (3) The examiners found eight occurrences where the company failed to comply with the provisions of the insurance contract.
- a. In one instance, the company failed to mail the cancellation notice to the insured at least ten days prior to the effective date of cancellation.
  - b. In five instances, the company failed to provide advance notice of cancellation to the lienholder.
  - c. In two instances, the company failed to mail the cancellation notice to the insured's address listed on the policy.

#### Other Law Violations

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

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

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

The Bureau requested ten automobile cancellations that were initiated by the company where the company mailed the notice on or after the 60<sup>th</sup> day of coverage in the initial policy period or at any time during the term of a subsequent renewal policy.



The examiners reviewed eight of these files. One file was a flat cancellation and one file was not cancelled after the 59th day of coverage. As a result of this review, the examiners found overcharges totaling \$20.59 and undercharges totaling \$2.63. The net amount that should be refunded to insureds is \$20.59 plus six percent (6%) simple interest.

- (1) The examiners found two violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the return premium correctly.
- (2) The examiners found four 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 one instance, the company failed to provide proper notice of cancellation to the lienholder.
  - c. In two instances, the company failed to obtain valid proof of mailing the cancellation notice to the lienholder.
- (3) The examiners found four violations of § 38.2-2212 D of the Code of Virginia.
  - a. In three instances, the company cancelled the insured's motor vehicle policy for a reason not permitted by the Code of Virginia.
  - b. In one instance, the company failed to obtain sufficient documentation from the insured verifying relocation to another state permitting the company to cancel the policy.
- (4) The examiners found five violations of § 38.2-2212 E of the Code of Virginia.
  - a. In one instance, the company failed to send the insured written notice of cancellation.
  - b. In one instance, the company failed to send the cancellation notice to the insured's address listed on the policy.

- c. In two instances, the company failed to mail the notice of cancellation to the insured at least 45 days prior to the effective date of cancellation.
  - d. In one instance, the company failed to state the effective date of cancellation in the notice of cancellation.
- (5) The examiners found three occurrences where the company failed to comply with the provisions of the insurance contract. The company failed to provide advance notice of cancellation to the lienholder.

#### Other Law Violations

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

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

### **All Other Cancellations – Automobile Policies**

#### NONPAYMENT OF THE PREMIUM

The Bureau requested 25 automobile cancellations that were initiated by the company for nonpayment of the policy premium. The examiners reviewed all of these files. As a result of this review, the examiners found no overcharges and no undercharges.

- (1) The examiners found five violations of § 38.2-2208 B of the Code of Virginia.
  - a. In one instance, the company failed to provide proper notice of cancellation to the lienholder.
  - b. In four instances, the company failed to obtain valid proof of mailing the cancellation notice to the lienholder.
- (2) The examiners found 15 violations of § 38.2-2212 E of the Code of Virginia.

- a. In four instances, the company failed to send the insured written notice of cancellation of his motor vehicle policy.
  - b. In one instance, the company failed to mail the notice of cancellation at least 15 days prior to the effective date of cancellation.
  - c. In five instances, the company failed to advise the insured of his right to request a review by the Commissioner of Insurance.
  - d. In five instances, the company failed to advise the insured of the availability of other insurance through his agent, another insurer or the Virginia Automobile Insurance Plan (VAIP).
- (3) The examiners found seven occurrences where the company failed to comply with the provisions of the insurance contract. The company failed to provide advance notice of cancellation to the lienholder.

#### REQUESTED BY THE INSURED

The Bureau requested ten automobile cancellations that were initiated by the insured where the cancellation was to be effective during the policy term. The examiners reviewed seven of these files and one additional file moved from the Company-Initiated Nonrenewal category. Two files were nonpayment cancellations and one policy was voided and not reviewed. As a result of this review, the examiners found no overcharges and no undercharges.

The examiners found no violations in this area.

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

The Bureau requested ten automobile nonrenewals that were initiated by the company. The examiners reviewed six of these files. Three files were expired policies and not reviewed and one file was reviewed under the Requested by the Insured category.

The examiners found five violations of § 38.2-2208 B of the Code of Virginia.

- a. In one instance, the company failed to retain a copy of the nonrenewal notice sent to the insured.
- b. In one instance, the company failed to retain proof of mailing the nonrenewal notice to the insured.
- c. In three instances, the company failed to provide proper notice of nonrenewal to the lienholder.

### CLAIMS REVIEW

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

The examiners reviewed 73 automobile claims for the period of September 1, 2010 through August 31, 2011. 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 \$2,447.46 and underpayments totaling \$4,011.29. The net amount that should be paid to claimants is \$4,011.29 plus six percent (6%) simple interest.

- (1) The examiners found 18 violations of 14 VAC 5-400-30. The company failed to document the claim file sufficiently to reconstruct events and/or dates that were pertinent to the claim.

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

- (2) The examiners found eight 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 four instances, the company failed to accurately inform an insured of

his Transportation Expense coverage when the file indicated the coverage was applicable to the loss.

- b. In four instances, the company failed to accurately inform an insured of his benefits or coverages, including rental benefits, available under the Uninsured Motorist Property Damage coverage (UMPD) and/or Underinsured Motorist coverage (UIM).

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

- (3) The examiners found one violation of 14 VAC 5-400-40 D. The company required a release that was broader in scope than the subject matter giving rise to the claim payment.
- (4) The examiners found eight 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 one violation 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.
- (6) The examiners found seven violations of 14 VAC 5-400-70 D. The company failed to offer the insured an amount that was fair and reasonable as shown by the investigation of the claim, or failed to pay a claim in accordance with the insured's policy provisions.

- a. In three instances, the company failed to reimburse the insured his

- portion of the collision deductible under the UMPD coverage.
- b. In two instances, the company failed to pay the insured's rental benefits, available under the Uninsured Motorist Property Damage coverage (UMPD) and/or Underinsured Motorist coverage (UIM).
  - c. In one instance, the company failed to pay the claim in accordance with the policy provisions under the insured's Transportation Expense coverage.
  - d. In one instance, the company failed to pay the claim in accordance with the policy provisions under the insured's Other Than Collision or Collision coverage.

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

- (7) 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 six instances, the company failed to provide a copy of the estimate to the insured.
  - b. In one instance, the company failed to provide a copy of the estimate to the claimant.

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

- (8) The examiners found one violation of § 38.2-510 A 1 of the Code of Virginia. The company misrepresented pertinent facts or insurance policy provisions relating to coverage at issue.
- (9) The examiners found three 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.

- (10) 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.

- (11) The examiners found two violations of § 38.2-510 C of the Code of Virginia. The company failed to accurately disclose to the vehicle owner, either on the estimate of repairs or in a separate document, the required aftermarket parts notice.

- (12) The examiners found one violation of § 38.2-517 A of the Code of Virginia. The company set unreasonable and/or arbitrary limits on what it would allow for reimbursement of paint and materials to repair a vehicle.

- (13) The examiners found three occurrences where the company failed to comply with the provisions of the insurance policy.

a. In one instance, the company failed to include the lienholder on the insured's check.

b. In two instances, the company paid an insured more than he was entitled to receive under the terms of his policy.

#### Other Law Violations

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

The examiners found 12 violations of § 52-40 of the Code of Virginia. The company failed to include the statement regarding insurance fraud on claim forms required by the company as a condition of payment.

**REVIEW OF FORMS**

The examiners reviewed the company's policy forms and endorsements used during the examination period and those that are currently used for the 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 each line of business listed below, the Bureau requested copies from the company. In addition, the Bureau requested copies of new and renewal business policy mailings that the company was processing at the time of the Examination Data Call. The details of these policies are set forth in the Review of the Policy Issuance 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 four violations of § 38.2-2220 of the Code of Virginia.

- a. In two instances, the company used a version of the standard automobile forms that was not in the precise language filed and adopted for use by the Bureau.
- b. In two instances, the company failed to use standard forms filed and adopted by the Bureau.

**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 e-mailed on the following dates: November 2, 2011. In addition, the company provided five renewal business policies e-mailed on the following dates: September 14, 2011 and November 2, 3, and 6, 2011.

**NEW BUSINESS POLICIES**

- (1) The examiners found 13 violations of § 38.2-305 A of the Code of Virginia. The company failed to specify in the insurance policy all of the information required by the statute.
  - a. In four instances, the company failed to show the \$ 75.00 limit for Towing and Labor on the declarations page.
  - b. In four instances, the company failed to list all forms applicable to the policy on the declarations page.
  - c. In five instances, the company listed endorsements on the declarations

page that were not applicable to the policy.

- (2) The examiners found five violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of an insurance policy. The company listed the Preferred Customer Discount on the declaration page that was not applicable to the policy.
- (3) The examiners found two violations of § 38.2-604 A of the Code of Virginia. The company failed to provide the Notice of Information Collection and Disclosure Practices as required by this statute.

#### RENEWAL BUSINESS POLICIES

- (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 all of the information required by the statute.
  - a. In two instances, the company failed to show the \$75.00 limit for Towing and Labor on the declarations page.
  - b. In four instances, the company failed to list all forms applicable to the policy on the declarations page.
  - c. In five instances, the company listed endorsements on the declarations page that were not applicable to the policy.
- (2) The examiners found eight violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of an insurance policy.
  - a. In five instances, the company listed the Preferred Customer Discount on the declaration page that was not applicable to the policy.
  - b. In three instances, the company misrepresented the policy provisions for stacking Medical Expense Benefits coverage.

**REVIEW OF STATUTORY NOTICES**

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

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

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

**General Statutory Notices**

- (1) The examiners found four violations 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.
- (2) The examiners found two violations of § 38.2-604 C of the Code of Virginia. The company's short form Notice of Information Collection and Disclosure Practices did not contain all the information required by this statute.
- (3) The examiners found four violations of § 38.2-604.1 of the Code of Virginia. The company's long form Notice of Financial Information Collection and Disclosure Practices did not contain all of the information required by the statute.

### **Statutory Vehicle Notices**

The examiners found no violations in this area.

### **Other Notices**

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

The examiners found no violations in this area.

### **LICENSING AND APPOINTMENT REVIEW**

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

### **Agent**

The examiners found no violations in this area.

### **Agency**

The examiners found no violations in this area.

### **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 one violation of § 38.2-511 of the Code of Virginia. The company failed to maintain a complete register in compliance with this statute.

**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.

The company submitted its security information as required by § 38.2-613.2 of the Code of Virginia.

## **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**

Elephant Insurance Company shall:

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

### **Rating and Underwriting Review**

Elephant Insurance Company shall:

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

- (4) Specify accurate information in the policy by showing policy effective time, the Towing and Labor coverage limit, and all applicable forms on the declarations page.
- (5) Properly represent stacking of Medical Expense coverage limits and applicable discounts on the declarations page.
- (6) Provide a written Adverse Underwriting Decision notice to an insured when the policy is issued at a higher premium based upon information that is different from the information provided by the insured in the application.
- (7) Provide the Accident Point Surcharge notice when the policy has been surcharged for an at-fault accident.
- (8) File all rates and supplementary rate information with the Bureau.
- (9) 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, base and final rates, credit information and tier eligibility.

### **Termination Review**

Elephant Insurance Company shall:

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

- (4) Retain proof of mailing the cancellation notice to the insured.
- (5) Obtain valid proof of mailing the cancellation notice to the lienholder.
- (6) Send a notice of cancellation to the insured.
- (7) Send a proper notice of cancellation and/or nonrenewal to the lienholder.
- (8) Cancel private passenger automobile policies when the notice is mailed after the 59th day of coverage only for those reasons permitted by § 38.2-2212 of the Code of Virginia.
- (9) Send the cancellation notice at least 45 days before the effective date of cancellation when the notice is mailed after the 59th day of coverage.
- (10) Provide the insured notice of his right to have the termination of his policy reviewed by the Commissioner of Insurance.
- (11) Provide the insured with notice of the availability of insurance through an agent, another insurer or the VAIP in the cancellation notice of a private passenger automobile policy.

#### **Claims Review**

- (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 rental benefits under UMPD and Transportation Expenses coverage.
- (6) Acknowledge correspondence that reasonably suggests a reply is expected from insureds and claimants within ten business days.
- (7) Offer the insured an amount that is fair and reasonable as shown by the investigation of the claim and pay the claim in accordance with the insured's policy provisions.
- (8) Provide copies of vehicle repair estimates prepared by or on behalf of the company to insureds and claimants.
- (9) Negotiate prompt, fair and equitable settlements of claims in which liability is reasonably clear.

#### **Forms Review**

Elephant Insurance Company shall:

- (1) Use the precise language of the standard automobile forms as adopted by the Bureau.
- (2) Use the required standard automobile forms filed and adopted by the Bureau.

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

Elephant Insurance Company shall:

- (1) Specify the required information in the policy by listing all of the applicable forms and showing the effective time of the policy on the declarations page.
- (2) Specify the required information in the policy by providing the Towing and Labor coverage limit when applicable.

- (3) Properly represent applicable discounts and Medical Expense coverage benefits on the declarations page.
- (4) Provide the insured the Notice of Information Collection and Disclosure Practices with new business policies as required by § 38.2-604 of the Code of Virginia.

**Review of Statutory Notices**

Elephant Insurance Company shall:

- (1) Amend the long form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 B of the Code of Virginia.
- (2) Amend the short form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 C of the Code of Virginia.
- (3) Amend the Notice of Financial Information Collection and Disclosure Practices to comply with § 38.2-604.1 B of the Code of Virginia.

**Review of the Complaint-Handling Process**

Elephant Insurance Company shall:

Maintain a complete complaint register that is in compliance with § 38.2-511 of the Code of Virginia.

### 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**

- Revise the application software to show the correct accidents and convictions with the corresponding drivers.
- Correct the tier eligibility criteria to provide for drivers licensed for four or more years.
- Amend the manual to provide model year factors for vehicles with model years prior to 1987.
- Amend the manual to provide vehicle age factors for vehicles older than 18 years old.
- Use the rounded two digit Acquisition Expense factors as filed instead of the three digit factors applied by the company.
- Ensure that the \$1,000 Customizing Equipment coverage limit is only applied to pickup trucks and vans. There is no limit on this coverage for cars.
- Amend the Rate Order Calculation to provide for the Household factors to apply to OTC and Loan coverages when the policy has more drivers than vehicles.
- Show the Total Policy Premium summation on the declarations page and show the Financial Responsibility fee as in addition to the policy premium.
- Revise the list of forms in the Policy Jacket to accurately indicate mandatory and optional forms.
- File the Tier and Credit Tier factors that apply to the UMBI premium.
- Correct the amended declaration pages to show the actual policy

effective dates and expiration dates. The company's amended declaration pages incorrectly showed the policy began and ended on the expiration date of the policy.

### Termination

- Cease providing the Right to Review by the Commissioner language in its notices mailed within the first 59 days of a new business private passenger automobile policy since such right is not provided by the Code.
- Provide the same advance notice to lienholders as that given to insureds in accordance with the Loss Payable Clause endorsement provisions.
- Provide advance notice of cancellation to lienholders.
- File an SR-26 with DMV within 15 days of cancellation a motor vehicle policy.
- Send the cancellation notice to the insured's address listed on the policy.

### Claims

- Record conversations only after permission is obtained from the parties involved.
- Obtain the insured's permission before disclosing his policy limits to a third party.
- Use the term "Medical Expense Benefits" coverage instead of the term "Medical Payments/Med. Pay" on checks.
- Use the term "Other Than Collision" coverage instead of the term "Comprehensive" on checks.

### Forms

- The company should correct grammatical and formatting errors outlined in the Recommendation Review sheets in the following forms: Personal Auto Policy (PP 00 01 01 05), Amendment of Policy Provisions – Virginia (PP 01 99 07 06), Loss Payable Clause (PP 03 05 08 86), Customizing Equipment Coverage (PP 03 18 01 05), Medical Expense and Income Loss Benefits Coverage – Virginia (PP 05 96 01 05), Trust Endorsement (PP 13 03 01 05), District of Columbia Employees Using Autos in

Government Business – Virginia (PP 13 48 01 05), Transportation Expenses Coverage – Virginia (PP 13 52 01 04), Joint Ownership Coverage – Virginia (PP 13 53 01 05), Towing and Labor Costs Coverage – Virginia (PP 13 55 06 00), Coverage for Damage to Your Auto (Maximum Limit of Liability) (PP 13 58 01 05), Limited Mexico Coverage (PP 13 61 01 05) and Uninsured Motorists Coverage – Virginia (PP 14 03 01 05).

### **Policy Issuance Process**

- The company should change the time to 12:01 a.m. for both effective and expiration dates on the declarations page to match the filed rule and the expiration requirements in the standard form.

### **Statutory Notices**

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

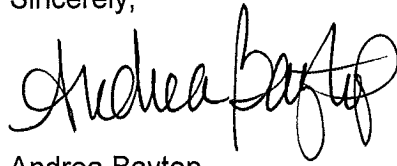
### **SUMMARY OF PREVIOUS EXAMINATION FINDINGS**

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

## ACKNOWLEDGEMENT

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

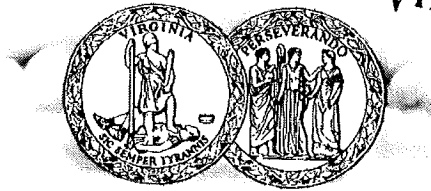
Sincerely,

A handwritten signature in black ink, appearing to read "Andrea Baytop". The signature is written in a cursive style with a large, looping initial "A".

Andrea Baytop  
Senior Insurance Market Examiner

# COMMONWEALTH OF VIRGINIA

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



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April 24, 2012

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

Elaine Sampson  
Compliance Associate  
Elephant Insurance Company  
140 East Shore Drive, Suite 300  
Glen Allen, VA 23059

Re: Market Conduct Examination  
Elephant Insurance Company (NAIC #13688)  
Examination Period: September 1, 2010–August 31, 2011

Dear Ms. Sampson:

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

Enclosed with this letter is a copy of the preliminary examination report and copies of review sheets that have been withdrawn or revised since April 13, 2012. Also enclosed are several reports that will provide you with the specific file references for the violations listed in the report.

Since there appears to have been a number of violations of Virginia insurance laws on the part of the company, I would urge you to closely review the report. Please provide a written response. When the company responds, please use the same format (headings and numbering) 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, if the company has comments it wishes to make regarding Part Two 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.

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

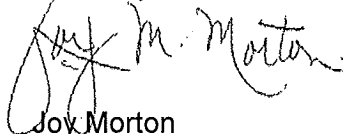
Finally, we have enclosed an Excel file that the company must complete and return to the Bureau with the company's response. This file lists the review items for which the examiners identified overcharges (rating and terminations) and underpayments (claims).

The company's response and the spreadsheet mentioned above must be returned to the Bureau by May 29, 2012.

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

We look forward to your reply by May 29, 2012.

Sincerely,

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

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





Elephant Insurance Company  
 PO Box 5005  
 Glen Allen, VA 23058-5005  
[www.elephant.com](http://www.elephant.com)

May 31, 2012

**VIA OVERNIGHT MAIL DELIVERY**

Ms. Joy M. Morton, Supervisor  
 Virginia Bureau of Insurance  
 Market Conduct Section, Property and Casualty Division  
 PO Box 1157  
 Richmond, VA 23218

RE: Market Conduct Examination  
 September 1, 2010 – August 31, 2011  
 Elephant Insurance Company (NAIC #13688)

Dear Ms. Morton:

Elephant Insurance Company (Elephant) submits response to your April 24, 2012 Preliminary Examination Report letter. We formatted our responses as instructed by the Bureau of Insurance (Bureau).

This has been a great learning experience for us and we appreciate all the assistance provided by your team in educating and providing direction to us regarding best practices for our company.

Should you have questions or need additional assistance, please do not hesitate to contact me at 804-955-1700, extension 2075.

Sincerely,

Elaine T. Sampson, Compliance Associate  
 Market Conduct Examination Coordinator  
[elaine.sampson@elephant.com](mailto:elaine.sampson@elephant.com)  
 Elephant Insurance Services, LLC  
 1-800-21-TRUNK

Attachments



**PART ONE – THE EXAMINERS’ OBSERVATIONS**

Unless comments or responses with the **DISAGREE** header appear in Part One - The Examiners’ Observations, then Elephant agrees (**AGREE**) with those errors where Elephant violated Virginia insurance statutes and regulations.

Rating and Underwriting Review

- Automobile New Business Policies
- Automobile Renewal Business Policies

**DISAGREE.**

Page 10 of 14, § 38.2-1906 D/05, Rates/rules filed-eligibility criteria/tiered rating program

Reference No. RPA047; Review Sheet. 1899895452; Policy No. [REDACTED] Examiner. Gloria Warriner

The minimum years licensed is less than one (<1) because the daughter has her license for less than one year. Twelve (12) points are added to the tier score generating a score of 103, which is in tier 36.

**R&URBPPA1899895452, Policy [REDACTED]**

| Category           | Group     | Score      |
|--------------------|-----------|------------|
| Start              |           | 100        |
| Prior BI           | Min       | 0          |
| Occ                | FTS – A   | -4         |
| AYL                | 4 or more | 0          |
| Min. Lic           | <1        | 12         |
| First Lic          | 18        | 3          |
| NCC                | 0         | 0          |
| YPI                | 5         | -8         |
| Marital            | Married   | 0          |
| <b>Total Score</b> |           | <b>103</b> |
| <b>Tier</b>        |           | <b>36</b>  |

**DISAGREE.**

Page 13 of 14, Premium Overcharge/1, Amount of premium overcharge on this policy –new or renewal business

Reference No. RPA047; Review Sheet. 833192767; Policy No. [REDACTED] Examiner. Gloria Warriner

We submit the same rationale as the previous response.

Elephant requests reconsideration of tier rating and overcharge violations because the Examiner’s review did not consider the daughter, therefore (1) the policy used the correct tier rating; and (2) due to using the referenced tier documentation, we rated renewal policy [REDACTED] correctly and should not refund the \$195.51 plus six-percent interest.

Termination Review

- Company-Initiated Cancellations – Automobile Policies
  - Notice Mailed Prior to the 60<sup>th</sup> Day of Coverage
  - Notice Mailed After the 59<sup>th</sup> Day of Coverage
- All Other Cancellations – Automobile Policies
  - Nonpayment of the Premium
  - Requested by the Insured
- Company-Initiated Non-renewals – Automobile Policies

**THE EXAMINERS' OBSERVATIONS**

Claims Review

- Private Passenger Auto Vehicle Claims

**DISAGREE.**

Page 5 of 9, 14 VAC 5-400-70—D/09, Offer fair and reasonable/accord w/pol prov—MEB

Reference No. CPA002; Review Sheet. 346907408; Claim No. [REDACTED]; Examiner. Gerber, Karen

The Examiner indicated that Elephant underpaid the claim by \$10,000.00. It appears that this amount is arbitrary and appears to be linked to the available Medical Payments coverage afforded under the policy. There is no commentary regarding the injured parties' actual claim value or how the \$10,000.00 was determined.

Provided is a copy of the claim financial transactions related to the claim that challenges the assessment that Elephant established a \$1,000.00 cap on the medical expenses. Two of the three Medical Expense features resulted in payments in excess of \$1,000.00. Because of the Bodily Injury claims, Elephant paid the injured parties for their pain and suffering and the injured parties medical expenses were paid under the policy's Medical Expense coverage.

The Examiner noted that the injured parties were entitled to \$10,000.00 in Medical Expense payments; however, the injured parties did not accumulate that amount of accident related treatment. Elephant paid 100% of the accident related expenses within the policy liability limits.

Elephant requests reconsideration of the requirement to pay the \$10,000.00 underpayment due to (1) the customer did not accumulate that amount in medical bills, and (2) Elephant paid 100% of the incurred medical bills.

**DISAGREE.**

Page 6 of 9, 14 VAC 5-400-70-D/3, Offer fair & reasonable/accord w/pol prov—UM & coll coverages

Reference No. CPA029; Review Sheet. 971457552; Claim No. [REDACTED]; Examiner. Gerber, Karen

Elephant assumed the discussions during the onsite exam addressed the misunderstanding and clarified that we did not deduct the salvage value twice. Requesting the title is not part of our claims process and would have delayed the claim processing and settlement. We feel our process in handling this claim was compliant and adhered to the BOI regulations.

Please reference page four claim notes. 4/7/11, 10:46am details the ISO match report and this information was relayed to the customer and there was no dispute to the vehicle's prior total loss, which could potentially affect the ACV. The 4/7/11, 11:07am claim note addresses the request for a revised ACV valuation report reflecting knowledge that vehicle was previously declared a total loss. Also, see page three claim note 4/12/11, 4:26pm for the Total Loss breakdown.

Mitchell an approved ACV valuation provider prepared the report. Once generated, it was presented to the customer who accepted the total loss settlement by retaining the salvage vehicle. The page two 4/13/11, 11:14am claim note reflects the negotiated settlement where the owner retained the salvage in exchange for \$2,280.26.

**PART ONE – THE EXAMINERS’ OBSERVATIONS**

Elephant requests reconsideration of the requirement to provide a branded title especially based on the settlement agreement for the customer to retain salvage and not be required to pay the calculated restitution.

Review of Forms

- Automobile Policy Forms
  - Policy Forms Used During the Examination Period

Review of the Policy Issuance Process

- Automobile Policies
  - New Business Policies
  - Renewal Business Policies

Review of Statutory Notices

- General Statutory Notices

Licensing and Appointment Review

Review of the Complaint-Handling Process

Review of Privacy and Information Security Procedures

**PART TWO – CORRECTIVE ACTION PLAN**

Rating and Underwriting Review

Elephant Insurance Company has:

- (1) Corrected the errors that caused the overcharges and undercharges and processed refunds since all of the affected policies are no longer in-force.
- (2) Included six-percent interest in the refund amount and sent a generic cover letter with each check. Submitted is a copy of the letter for review.
- (3) Completed and returned the Excel file titled "Rating Overcharges Cited during the Examination" that acknowledges Elephant processed the refunds.
- (4) Revised the Declarations page specifying accurate information in the policy by showing policy effective time, the Towing and Labor coverage limit, and all applicable forms.
- (5) Revised the Declarations page properly representing stacking of Medical Expense coverage limits and applicable discounts.
- (6) Formatted the Application providing a written Adverse Underwriting Decision notice to an insured when the policy is issued at a higher premium based upon information that his different from the information provided by the insured in the application.
- (7) Formatted the Application providing the Accident Surcharge notice when the policy has been surcharged for an at-fault accident.
- (8) Corrected and clarified the Rate and Rule Manual discrepancies of vehicle age, model year, tier scores, and tier that will be filed on or before July 31, 2012.
- (9) Initiated the new rating engine that will coincide with the new policy management system providing rating environment stability.

These corrections will be activated when Elephant implements the new policy management system with a tentative launch of Fall 2012.

Termination Review

Elephant Insurance Company has:

- (1) Corrected the errors that caused the overcharges and undercharges by processed refunds. All of the affected policies are no longer in-force.
- (2) Included six-percent interest in the refund amount and sent a generic cover letter with each check. Submitted is a copy of the letter for review.
- (3) Completed and returned the Excel file titled "Rating Overcharges Cited during the Examination" that acknowledges Elephant processed the refunds.
- (4) Implemented a new process within the Operational Support (Special Ops) department to retain proof of mailing (USPS certificate of mailing round stamp) the cancellation notice to the insured.
- (5) Partnered with ISO CV-Exchange to send, manage, report and maintain loss payee and mortgagee notifications allowing Elephant to maintain proof of mailing the cancellation notice to the lienholder.
- (6) Implemented a process to send a notice of cancellation to the insured before cancellation.
- (7) Partnered with ISO CV-Exchange to send, manage, report and maintain loss payee and mortgagee notifications allowing Elephant to maintain proof of mailing the nonrenewal notice to the lienholder.
- (8) Initiated system programming with only the reasons permitted by § 38.2-2212 of the Code of Virginia used by the associate or system when the cancellation notice is mailed after coverage the 59<sup>th</sup> day of coverage.

**PART TWO – CORRECTIVE ACTION PLAN**

- a. All Special Ops associates are trained on standard cancellation reason language, coverage effective date timeframes for over and under 60-days for use until the new system implementation.
  - (9) Initiated system programming to mail the cancellation notice at least 45-days before the effective date of cancellation when the notice is mailed after the 59<sup>th</sup> day of coverage.
  - (10) Reviewed and updated forms providing the insured notice of his right to have the termination of his policy reviewed by the Commissioner of Insurance.
  - (11) Reviewed and updated forms providing the insured with notice of availability of insurance through an agent, another insurer or the VAIP in the cancellation notice of a private passenger automobile policy.
- These updates will be activated when Elephant implements the new policy management system with a tentative launch of Fall 2012.

Claims Review

Elephant Insurance Company has:

- (1) Corrected the errors that caused the claims underpayments by processing refunds.
- (2) Included six-percent interest in the refund amount and sent a generic cover letter with each check. Submitted is a copy of the letter for review.
- (3) Completed and returned the Excel file titled "Claims Underpayments Cited during the Examination" that acknowledges Elephant processed the additional payments.
- (4) Amended our Standard Operating Procedures (SOPs) to:
  - a. Secure a release for Bodily Injury (BI) or Uninsured Motorist Bodily Injury (UMBI) claims after issuing settlement checks when the total payment is less than \$1,500.00 for the BI or UMBI claim. The claim file will be deemed complete without a copy of the signed release IF, the Claims Associate confirms the settlement check has been cashed by the claimant.
  - b. Utilize a verbal recorded release process in lieu of the signed release saving as part of the claims file.
  - c. Require Claims Associate to accurately document the claim notes reflecting all available coverage benefits have been offered to the customer.
  - d. Require corresponding invoices for all payments, specifically Rental Invoices.
- (5) Amended our Standard Operating Procedures to require Claims Associate to accurately document the claim notes reflecting all available benefits have been offered to the customer.
- (6) Amended our SOPs to acknowledge and reply to correspondence that suggests a response is expected from insured's and claimants within ten business days.

Claims Review

- a. A dedicated mail-processing associate will notify the claims associate via generating a claim activity reminder when correspondence received.
- (7) Amended our SOPs to ensure that settlement offers are fair and reasonable as shown by the investigation of the claim and in accordance with the insured's policy provision by:
  - a. Re-communicating our SOPs regarding the investigative process for UMPD claims, specifically addressing when it is necessary to secure a police report or a notarized Proof of Loss form.
  - b. Re-communicating our SOPs regarding the documentation of Total Loss settlements, particularly when a vehicle has previously been declared a total loss, and that finding impacts the Actual Cash Value of the vehicle.

**PART TWO – CORRECTIVE ACTION PLAN**

- c. Re-communicating our SOPs to ensure thorough documentation of claim notes with sufficient explanation supporting decisions related to what is paid and what is not paid.
- (8) Re-communicated our SOPs regarding the requirement to provide all customers with copies of their repair estimates including the original repair and any supplemental repair estimates.
- (9) Re-communicated our SOPs regarding the investigative process for UMPD claims, specifically addressing when it is necessary to secure a police report or a notarized Proof of Loss form. Elephant recognizes that the insurance policy does not require the policyholder to report incidents to the police, nor are they required to complete both a Proof of Loss form AND a recorded interview if these investigative tools capture the same information.

Forms Review

Elephant Insurance Company has:

- (1) Initiated form correction using the precise language of the standard automobile forms as adopted by the Bureau.
- (2) Identified all forms not previously used that were filed and adopted by Bureau.

These corrections will be activated when Elephant implements the new policy management system with a tentative launch of Fall 2012.

Review of Policy Issuance Process

Elephant Insurance Company has:

- (1) Initiated revision specifying the required Declarations page information to list all applicable forms and show the Effective time.
- (2) Initiated revision specifying the required Declarations page information to provide the Towing and Labor coverage limit.
- (3) Initiated revision to properly represent stacking of Medical Expense coverage benefits on the Declarations page.
- (4) Combined the Notice of Information Collection and Disclosure Practices with the Privacy Policy as recommended during the onsite review as required by § 38.2-604 of the Code of Virginia.

These Notice corrections will be activated when Elephant implements the new policy management system with a tentative launch of Fall 2012.

Review of Statutory Notices

Elephant Insurance Company has:

- (1) Amended the long form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 B of the code of Virginia.
- (2) Amended the short form Notice of Information Collection and Disclosure Practices to comply with §38.2-604 C of the Code of Virginia.
- (3) Amended the Notice of Financial Information Collection and Disclosure Practices to comply with § 38.2-601.1 B of the Code of Virginia.

These amendments will be activated when Elephant implements the new policy management system with a tentative launch of Fall 2012.

Review of the Complaint-Handling Process

Elephant Insurance Company has:

Amended the complaint register reviewed during the Bureau exam to maintain compliance with § 38.2-511 of the Code of Virginia. The revised register is a complete register that includes the total number of complaints; classification by line

**PART TWO – CORRECTIVE ACTION PLAN**

of insurance (all are PPA); the nature of each complaint; the disposition of the complaints; and, the time it took to process each complaint.



**PART THREE -- RECOMMENDATIONS**

Elephant has reviewed the Recommendations provided by the Bureau Examiners. We have amended our SOPs and incorporated revised processes reflected in the Corrective Action Plans.

**ACKNOWLEDGEMENT**

Elephant is appreciative that the Bureau acknowledged and welcomed the Elephant culture and the cooperation extended by all of our associates during your visit to our company.

# COMMONWEALTH OF VIRGINIA

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



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

July 2, 2012

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

Ms. Elaine Sampson  
Market Conduct Examination Coordinator  
Elephant Insurance Company  
140 East Shore Drive, Suite 300  
Glen Allen, Virginia 23059

Re: Market Conduct Examination  
Elephant Insurance Company (NAIC#13688)  
Examination Period: September 1, 2010 – August 31, 2011

Dear Ms. Sampson:

The Bureau of Insurance (Bureau) has reviewed the company's (Company) May 31, 2012 response to the Preliminary Market Conduct Report (Report) of the above referenced company. The Bureau has referenced only those items in which the Company has disagreed with the Bureau's findings, or items that have changed in the Report. This response follows the format of the Report.

The Company included policy numbers and claim numbers in its response to the Preliminary Report. Policy and claim numbers are considered personal information and we will redact them from the published version of the Company's response. The Company must refrain from including personal information in its response to the Revised Report.

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

### **Automobile Renewal Business Rating**

(4c) After further review, the violation for RPA047 has been withdrawn. The overcharge has been reduced to \$ 109.37.

### **Claims Review**

(6a) The violation for CPA029 remains in the Report. The company incorrectly deducted \$2,500 from the actual cash value (ACV) of the vehicle because

another insurance company considered the vehicle a total loss in a previous accident. The vehicle's ACV should have reflected the value of the car in its condition at the time of the accident under review. The company's notes did not indicate if the damages from the prior loss were repaired, which would determine the current ACV. The claim file did not include any evidence that the company reduced ACV due to its condition. Rather, the company reduced ACV only because the vehicle was previously damaged, which does not consider the actual value of the vehicle. The company cannot reduce ACV for diminution in value. The company is not required to provide a branded title for this item. However, the company is still required to pay the restitution of \$2,500, plus 6% interest.

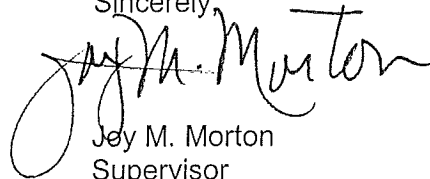
- (6c) After further review, the violation for CPA002 has been withdrawn, including the \$10,000 underpayment.

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

We recommend the company to provide a copy of any revised forms and notices for our review prior to implementation.

We have made the changes noted above to the Market Conduct Examination Report. Enclosed with this letter is a revised version of the Report, technical reports and Restitution spreadsheet. The Company's response to this letter is due in the Bureau's office by July 18, 2012.

Sincerely,



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

Enclosures



Elephant Insurance Company  
PO Box 5005  
Glen Allen, VA 23058-5005  
[www.elephant.com](http://www.elephant.com)

July 19, 2012

**VIA EMAIL: [joy.morton@scc.virginia.gov](mailto:joy.morton@scc.virginia.gov), [andrea.baytop@scc.virginia.gov](mailto:andrea.baytop@scc.virginia.gov)**

Ms. Joy M. Morton, Supervisor  
Virginia Bureau of Insurance  
Market Conduct Section, Property and Casualty Division  
PO Box 1157  
Richmond, VA 23218

RE: Market Conduct Examination  
Examination Period: September 1, 2010 – August 31, 2011  
Elephant Insurance Company (NAIC #13688)

Dear Ms. Morton:

Elephant Insurance Company (Elephant) submits response to your July 2, 2012 Preliminary Examination Report letter.

Elephant fully agrees without amendment all report updates and submit the spreadsheet for the final restitution payments.

Should you have questions or need additional assistance, please do not hesitate to contact me at 804-955-1700, extension 2075.

Sincerely,

A handwritten signature in cursive script that reads "Elaine T. Sampson".

Elaine T. Sampson, Compliance Associate  
Market Conduct Examination Coordinator  
[elaine.sampson@elephant.com](mailto:elaine.sampson@elephant.com)  
Elephant Insurance Services, LLC  
1-800-21-TRUNK

Attachment

# COMMONWEALTH OF VIRGINIA

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



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

August 6, 2012

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

Elaine Sampson  
Compliance Associate  
Elephant Insurance Company  
140 East Shore Drive, Suite 300  
Glen Allen, VA 23059

RE: Market Conduct Examination  
Elephant Insurance Company (NAIC # 13688)

Dear Ms. Sampson:

The Bureau of Insurance (Bureau) has concluded its review of the company's response of July 19, 2012. Based upon the Bureau's review of the company's letter, we are now in a position to conclude this examination. Enclosed is the final Market Conduct Examination Report of Elephant Insurance Company (Report).

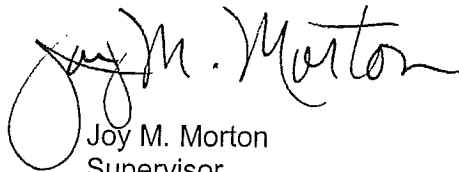
Based on the Bureau's review of the Report and the company's responses, it appears that a number of Virginia insurance laws and regulations have been violated, specifically:

Sections 38.2-305 A, 38.2-502, 38.2-510 A 6, 38.2-511, 38.2-604 A, 38.2-604 B, 38.2-604 C, 38.2-604.1, 38.2-610 A, 38.2-1905 A, 38.2-1906 A, 38.2-1906 D, 38.2-2208 A, 38.2-2208 B, 38.2-2212 D, 38.2-2212 E, 38.2-2220 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 D, 14 VAC 5-400-80 D of the Virginia Administrative Code.

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

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

Sincerely,

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

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



Elephant Insurance Company  
PO Box 5005  
Glen Allen, VA 23058-5005  
[www.elephant.com](http://www.elephant.com)

September 4, 2012

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

RE: Market Conduct Examination Settlement Offer (Amended)  
Elephant Insurance Company (NAIC #13688)

Dear Ms. Bannister:

This will acknowledge receipt of the Bureau of Insurance's August 16, 2012 letter concerning the above referenced matter.

We wish to make a settlement offer on behalf of Elephant Insurance Company (Elephant) for the alleged violation of §§ 38.2-305 A, 38.2-502, 38.5-510 A 6, 38.2-511, 38.2-604 A, 38.2-604 B, 38.2-604 C, 38.2-604.1, 38.2-610, 38.2-1905 A, 38.2-1906 A, 38.2-1906 D, 38.2-2208 A, 38.2-2208 B, 38.2-2212 D, 38.2-2212 E, 38.2-2220 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 D, 14 VAC 5-400-80 D of the Virginia Administrative Code.

1. Enclosed with this letter is a check payable to the Treasurer of Virginia for \$24,100.00.
2. Elephant agrees to comply with the corrective action plan set forth in our May 31, 2012 letter.
3. Elephant confirms that we made restitution to 23 consumers for \$5,609.06 in accordance with company letters dated May 31, 2012 and July 19, 2012.
4. Elephant confirms contact with the Bureau to arrange a meeting to discuss our Corrective Action Plan.
5. Elephant acknowledges our right to a hearing before the State Corporation Commission (SCC) in this matter and waives that right if the SCC accepts this offer of settlement.

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

Sincerely,

Elephant Insurance Company

  
Signature

Timothy MacAleese

Typed or Printed Name

Secretary and Treasurer

Title

September 4, 2012

Date

Enclosure



# COMMONWEALTH OF VIRGINIA

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



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

Elephant Insurance Company has tendered to the Bureau of Insurance the settlement amount of \$24,100.00 by its check numbered 004829 and dated August 21, 2012, a copy of which is located in the Bureau's files.

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, SEPTEMBER 18, 2012

120920130

SEC-CLERK'S OFFICE  
DOCUMENT CONTROL CENTER

2012 SEP 18 P 2:32

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2012-00199

ELEPHANT INSURANCE COMPANY,  
Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Elephant Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-305 A of the Code of Virginia ("Code") by failing to provide required information in the insurance policy; violated § 38.2-502 of the Code by misrepresenting the benefits, advantages, conditions or terms of an insurance policy; violated §§ 38.2-604 A, 38.2-604 B, 38.2-604 C, 38.2-604.1, 38.2-610 A, and 38.2-1905 A of the Code by failing to accurately provide the required notices to insureds; violated §§ 38.2-1906 A and 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendant; violated §§ 38.2-2208 A, 38.2-2208 B, 38.2-2212 D, and 38.2-2212 E of the Code by failing to properly terminate insurance policies; violated § 38.2-511 of the Code by failing to maintain a complete complaint register; violated § 38.2-2220 of the Code by using automobile forms that did not contain the precise language of the standard form filed and adopted by the Commission; and violated § 38.2-510 A 6 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 D, and 14 VAC 5-400-80 D of the Commission's Rules

Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, by failing to properly handle claims with such frequency as to indicate a general business practice.

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

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Twenty-four Thousand One Hundred Dollars (\$24,100), waived its right to a hearing, agreed to comply with the Corrective Action Plan set forth in its letter to the Bureau dated May 31, 2012, and confirmed that restitution was made to 23 consumers in the amount of Five Thousand Six Hundred Nine Dollars and Six Cents (\$5,609.06).

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

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

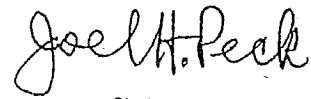
Accordingly, IT IS ORDERED THAT:

(1) The offer of Elephant Insurance Company in settlement of the matter set forth herein be, and it is hereby, accepted.

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

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:  
Timothy MacAleese, Secretary and Treasurer, Elephant Insurance Company, 140 East Shore  
Drive, Unit 300, Glen Allen, Virginia 23059; and a copy shall be delivered to the Commission's  
Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner  
Mary M. Bannister.

A True Copy  
Teste:



Clerk of the  
State Corporation Commission