

**MARKET CONDUCT EXAMINATION REPORT**

**OF**

**DIRECT GENERAL INSURANCE COMPANY**

**AS OF**

**December 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  
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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 Direct General Insurance Company as of August 25, 2013, which took place at the company's offices in Nashville, Tennessee and Tampa, Florida 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 12th day of September, 2013.

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

JACQUELINE K. CUNNINGHAM  
Commissioner of Insurance

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## INTRODUCTION

Pursuant to the authority of § 38.2-1317 of the Code of Virginia, a targeted examination has been made of the private passenger automobile business written by Direct General Insurance Company at its offices in Nashville, Tennessee and Tampa, Florida.

The examination commenced April 23, 2012 and concluded May 18, 2012. Brandon Ayers, Andrea D. Baytop, William T. Felvey, Karen S. Gerber, Richard L. Howell, Ju'Coby Hendrick, Melody Morrissette, 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 March 19, 2012 and was assigned the examination number of VA177-M5. The examination was conducted in accordance with the procedures established by the National Association of Insurance Commissioners (NAIC).

## COMPANY PROFILES\*

Direct General Insurance Company was incorporated under the laws of Florida on December 15, 1990, as Independent Property and Casualty Insurance Company (IPC) and began operations on January 1, 1991. Effective March 6, 1997, in contemplation of the company being sold to Direct General Corporation, it was redomesticated to Tennessee. On March 14, 1997, Direct General Corporation acquired all of the outstanding capital stock of Direct General Insurance Company. Prior to or simultaneously with the closing of the acquisition, 100% of the company's existing business was transferred to an affiliate of its former owner, primarily by bulk assumption of reinsurance. The company changed its name to Direct General Insurance Company

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\* Source: Best's Insurance Reports, Property & Casualty, 2011 Edition.

and ultimately was redomesticated to Indiana effective December 19, 2007. The capital stock of \$1.8 million consists of 180,000 shares of common stock with a par value of \$10.00 per share. The company has 10 million authorized shares of common stock.

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 May 28, 2004 except as noted in the table.

<b>GROUP CODE: 1213</b>	<b>DIRECT GENERAL</b>
NAIC Company Number	42781
LICENSED IN VIRGINIA	05/28/2004
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 2011 for the line of insurance included in this examination.\* This business was developed through captive agents.

<b>DIRECT GENERAL INS. CO.</b>	<b>PREMIUM VOLUME</b>	<b>MARKET SHARE</b>
Private Passenger Automobile Physical Damage	\$2,461,134	.14%
Private Passenger Liability	\$6,922,983	.29%

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\* Source: The 2011 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 business written in Virginia for the period beginning January 1, 2011 and ending December 31, 2011. This review included rating, underwriting, policy terminations, claims handling, forms, policy issuance,<sup>1</sup> statutory notices, agent's licensing, complaint-handling, and information security practices. The purpose of this examination was to determine compliance with Virginia insurance statutes and regulations and to determine that the company's operations were consistent with public interest. The Report is by test, and all tests applied during the examination are reported.

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

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

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

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

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

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

### **STATISTICAL SUMMARY**

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

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

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

AREA	<u>Population</u>					
	<u>DGIC</u>	<u>Sample Requested</u>		<u>FILES NOT FOUND</u>	<u>FILES WITH ERRORS</u>	<u>ERROR RATIO</u>
<u>TOTAL</u>		<u>FILES REVIEWED</u>				
<u>Private Passenger Auto</u>						
New Business <sup>1</sup>	<u>11592</u> 50	<u>11592</u> 50	49	0	49	100%
Renewal Business <sup>1</sup>	<u>4369</u> 30	<u>4369</u> 30	29	0	29	100%
Co-Initiated Cancellations <sup>2</sup>	<u>138</u> 12	<u>138</u> 12	9	0	7	78%
All Other Cancellations <sup>3</sup>	<u>8951</u> 25	<u>8951</u> 25	22	0	20	91%
Nonrenewals	<u>21</u> 5	<u>21</u> 5	5	0	5	100%
Premium Finance	<u>2694</u> 10	<u>2694</u> 10	11	0	11	100%
<u>Claims</u>						
Auto	<u>3186</u> 75	<u>3186</u> 75	75	0	66	88%

Footnote 1 - One motorcycle policy was not reviewed.

Footnote 2 - Two policies were cancelled flat, and one policy was a duplicate.

Footnote 3 - Two non pay cancellations were voided policies. One Insured Requested was moved to Premium Finance.

## 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 50 new business policy files for review. The examiners reviewed 49 of these files. One file was a motorcycle policy and not reviewed. As a result of this review, the examiners found overcharges totaling \$7,864.72 and undercharges totaling \$3,427.77. The net amount that should be refunded to insureds is \$15,649.42 plus six percent (6%) simple interest.

- (1) The examiners found nine violations of § 38.2-305 A of the Code of Virginia. The company failed to specify in the insurance contract or policy all of the information required by the statute.
  - a. In five instances, the company failed to specify in the insurance policy accurate information required by this statute. The total policy premium listed on the declarations page did not accurately reflect the individual vehicle premium.
  - b. In two instances, the company failed to include all applicable information on the declarations page. The company listed inaccurate vehicle and lienholder information on the declarations page.
  - c. In two instances, the company failed to list all forms applicable to the policy on the declarations page.

- (2) The examiners found 49 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 the expiration time on the declarations page.
- (3) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The company failed to provide the insured written Notice of an Adverse Underwriting Decision (AUD).
- (4) The examiners found two violations of § 38.2-1905 C of the Code of Virginia. The company failed to apply surcharge points under its Safe Driver Insurance Plan (SDIP) in accordance with its filed rules.
- (5) The examiners found 122 violations of § 38.2-1906 D of the Code of Virginia.
  - a. In 25 instances, the company failed to use the correct discounts and/or surcharges.
  - b. In eight instances, the company failed to apply the correct surcharge points for accidents and/or convictions.
  - c. In 11 instances, the company failed to use the correct symbols.
  - d. In 13 instances, the company failed to use the correct tier eligibility criteria.
  - e. In three instances, the company failed to use the correct driver classification factor.
  - f. In 24 instances, the company failed to use the correct base and/or final rates.
  - g. In 38 instances, the company failed to use its filed rounding rule.
- (6) The examiners found 46 violations of § 38.2-2234 A 1 of the Code of Virginia. The company failed to provide the Credit Score Disclosure Notice to the insured at the time of application.

### **Automobile Renewal Business Policies**

The Bureau requested 30 renewal business policy files for review. The examiners reviewed 29 of these files. One policy was a motorcycle policy and was not reviewed. As a result of this review, the examiners found overcharges totaling \$2,785.00 and undercharges totaling \$1,825.10. The net amount that should be refunded to insureds is \$2,785.00 plus six percent (6%) simple interest.

- (1) The examiners found eight 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.
  - a. In seven instances, the information listed on the declarations page was not accurate.
  - b. In one instance, the company failed to state the correct vehicle model on the declarations page.
- (2) The examiners found 29 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 used the incorrect expiration time on the declarations page.
- (3) The examiners found two violations of § 38.2-1905 C of the Code of Virginia. The company applied points under a Safe Driver Insurance Plan to a vehicle other than the one customarily driven by the operator responsible for incurring the points.
- (4) The examiners found 69 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau.
  - a. In 14 instances, the company failed to use the correct discounts and/or surcharges.

- b. In three instances, the company failed to apply the correct surcharge points for accidents and/or convictions.
- c. In 12 instances, the company failed to use the correct symbols.
- d. In 12 instances, the company failed to use the correct tier eligibility criteria.
- e. In two instances, the company failed to use the correct driver classification factor.
- f. In nine instances, the company failed to use the correct base and/or final rates.
- g. In 17 instances, the company failed to use its filed rounding rule.

#### TERMINATION REVIEW

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

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

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

The Bureau requested ten automobile cancellations that were initiated by the company where the company mailed the notices prior to the 60<sup>TH</sup> day of coverage in the initial policy period. The Bureau reviewed seven of these files. Two files were flat cancelled and one file was a duplicate file. As a result of this review, the examiners found overcharges totaling \$94.63 and undercharges totaling \$49.18. The net amount that should be refunded to insureds is \$94.63 plus six percent (6%) simple interest.

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

Decision (AUD).

- (2) The examiners found six 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.
- (3) 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.
- (4) The examiners found one violation of § 38.2-2208 B of the Code of Virginia. The company failed to retain valid proof of mailing the cancellation notice to the insured.
- (5) The examiners found two occurrences where the company failed to comply with the provisions of the insurance contract.
  - a. In one instance, the company failed to provide advance notice of cancellation to the insured at least ten days prior to the effective date of cancellation.
  - b. In one instance, the company failed to mail the cancellation notice to the insured's address listed on the policy.

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

The Bureau requested two automobile cancellations that were initiated by the company where the company mailed the notices on or after the 59<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 both of these files. As a result of this review, the examiners found no overcharges and no undercharges.

- (1) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The company failed to provide the insured written notice of an AUD.
- (2) The examiners found one violation of § 38.2-2208 A of the Code of Virginia. The

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

- (3) The examiners found one violation of § 38.2-2212 D of the Code of Virginia. The company cancelled the insured's motor vehicle policy for a reason not permitted by the Code of Virginia.
- (4) The examiners found one violation of § 38.2-2212 E of the Code of Virginia. The company failed to mail the notice of cancellation to the insured at least 45 days prior to the effective date of cancellation.

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

#### NONPAYMENT OF THE PREMIUM

The Bureau requested 15 automobile cancellations that were initiated by the company for nonpayment of the policy premium. The examiners reviewed 13 of these files. Two files were voided back to the effective date and not reviewed. As a result of this review, the examiners found overcharges totaling \$31.00 and undercharges totaling \$537.58. The net amount that should be refunded to insureds is \$31.00 plus six percent (6%) simple interest.

- (1) The examiners found 11 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 13 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 14 violations of § 38.2-2212 E of the Code of Virginia.
  - a. In one instance, the company failed to include all named insureds on the cancellation notice.

- b. In 13 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).

#### REQUESTED BY THE INSURED

In addition, 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 nine of these files. One file was moved to the Requested by the Premium Finance Company category. As a result of this review, the examiners found overcharges totaling \$156.18 and undercharges totaling \$68.99. The net amount that should be refunded to insureds is \$156.18 plus six percent (6%) simple interest.

- (1) The examiners found seven violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the return premium correctly.
- (2) The examiners found two occurrences where the company failed to comply with the provisions of the insurance contract. The company failed to obtain advanced written notice of cancellation from the insured.

#### Other Law Violations

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

The examiners found 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.

#### REQUESTED BY THE PREMIUM FINANCE COMPANY

The Bureau requested ten automobile cancellations that were initiated by a premium finance company under a power of attorney. The examiners reviewed all of these files. The examiners reviewed one additional file that the company incorrectly

identified as an Insured Requested cancellation. As a result of this review, the examiners found overcharges totaling \$191.04 and no undercharges. The net amount that should be refunded to the premium finance company is \$191.04.

The examiners found 11 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 Non-renewals – Automobile Policies**

The Bureau requested five automobile non-renewals that were initiated by the company. The examiners reviewed all of these files.

- (1) 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.
- (2) The examiners found one violation of § 38.2-2208 B of the Code of Virginia. The company failed to retain valid proof of mailing the nonrenewal notice to the insured.
- (3) The examiners found two violations of § 38.2-2212 E of the Code of Virginia. The company failed to send the cancellation notice to the insured's address listed on the policy.

### **CLAIMS REVIEW**

The examiners reviewed 75 automobile claims for the period of January 1, 2011 through December 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 \$2,290.58 and underpayments totaling \$9,623.44. The net amount that should be paid to claimants is \$8,260.63 plus six percent (6%) simple interest.

- (1) The examiners found 29 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 22 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 his Collision or Other Than Collision deductible when the file indicated that the coverage was applicable to the loss.
- b. In two instances, the company failed to inform an insured of his Medical Expense Benefits coverage when the file indicated the coverage was applicable to the loss.
- c. In three instances, the company failed to properly inform an insured of his Transportation Expense coverage when the file indicated the coverage was applicable to the loss.
- d. In 15 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) when the file indicated the coverage was applicable to the loss.
- e. In one instance, the company failed to inform the insured of his Income Loss Benefits coverage when the file indicated the coverage was

applicable to the loss.

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

- (3) The examiners found 11 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.

- (4) The examiners found five violations of 14 VAC 5-400-60 B. The company failed to notify the insured, in writing, every 45 days of the reason for the company's delay in completing the investigation of the claim.
- (5) The examiners found three violations of 14 VAC 5-400-70 A. The company failed to deny a claim or part of a claim, in writing, and/or failed to keep a copy of the written denial in the claim file.
- (6) The examiners found 30 violations of 14 VAC 5-400-70 D. The company failed to offer the insured an amount that was fair and reasonable as shown by the investigation of the claim or failed to pay a claim in accordance with the insured's policy provisions.
- a. In eight instances, the company failed to reimburse the insured his portion of the collision deductible under the UMPD coverage.
  - b. In one instance, the company failed to pay the insured's rental benefits, available under the coverage UMPD and/or Underinsured Motorist coverage (UIM).
  - c. In 12 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 three instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Medical Expense Benefits coverage.
- e. In one instance, the company failed to pay the claim in accordance with the policy provisions under the insured's Transportation Expense coverage.
- f. In five instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Collision or Other Than Collision coverage.

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

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

- a. In six instances, the company's reservation of rights letter contained inaccurate information.
- b. In two instances, the company failed to properly convey to the insured and/or the claimant the company's obligation concerning payment of the rental or loss of use claim.

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

- (10) The examiners found ten violations of § 38.2-510 A 3 of the Code of Virginia. The company failed to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

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

- (11) The examiners found three 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.

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

- (13) The examiners found three violations of § 38.2-510 A 14 of the Code of Virginia. The company failed to provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for the denial of a claim or offer of a compromise settlement.

- a. In one instance, the company failed to pay the claimant's Collision Damage Waiver fees.
  - b. In one instance, the company failed to pay the proper sales and use tax, title fee, and/or license transfer fee in settling the claimant's Property Damage Liability claim.
  - c. In one instance, the company failed to properly pay the claimant's rental of a comparable substitute vehicle under property damage liability coverage.
- (14) 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.
- (15) 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.
- (16) The examiners found 17 occurrences where the company failed to comply with the provisions of the insurance contract.
- a. In one instance, the company paid a claim where no coverage existed.
  - b. In one instance, the company paid the driver of the vehicle instead of the named insured on the policy.
  - c. In two instances, the company failed to include the lienholder on the insured's check.
  - d. In three instances, the company failed to pay the claim in accordance with the terms of the policy.
  - e. In two instances, the company issued payments under an incorrect coverage.

- f. In eight instances, the company overpaid the sales tax, title, and/or tag transfer fees on total loss claims.

#### Other Law Violations

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

- (1) The examiners found four violations of § 8.01-425.1 of the Code of Virginia. The company failed to provide the notice of the insured's and/or claimant's right to rescind a release within three business days as a condition to a settlement for personal injury.
- (2) The examiners found 48 violations of § 52-40 of the Code of Virginia. The company failed to include the statement regarding insurance fraud on claim forms required by the company as a condition of payment.

#### REVIEW OF FORMS

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

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

## **Automobile Policy Forms**

### POLICY FORMS USED DURING THE EXAMINATION PERIOD

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

The examiners found three violations of § 38.2-2220 of the Code of Virginia.

- a. In two instances, the company failed to have available for use the Suspension of Insurance endorsement (PP 02 01 01 05) and the Reinstatement of Insurance endorsement (PP 02 02 08 86).
- b. In one instance, the company used a version of the Standard Automobile form that was not in the precise language filed and adopted by the Bureau.

### OTHER FORMS USED DURING THE EXAMINATION PERIOD

The examiners found no violations in this area.

### REVIEW OF THE POLICY ISSUANCE PROCESS

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

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

## **Automobile Policies**

The company provided five new business policies mailed on the following dates: February 3, 7, 8, and 10, 2012. In addition, the company provided five renewal business policies mailed on the following dates: February 3, 6, 8, and 10, 2012.

### NEW BUSINESS POLICIES

- (1) The examiners found five violations of § 38.2-305 A of the Code of Virginia. The company failed to specify in the insurance policy all of the information required by the statute.
  - a. In one instance, the company failed to list the Loss Payable endorsement (PP 03 05 08 86) and the applicable lienholder on the declarations page.
  - b. In four instances, the company listed endorsements on the declarations page that were not attached to the policy.
- (2) The examiners found four 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 misrepresented the expiration time on the declarations page.

### RENEWAL BUSINESS POLICIES

The examiners found no violations in this area.

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

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

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

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

### **General Statutory Notices**

The examiners found one violation of § 38.2-604 B of the Code of Virginia. The company failed to have available for use a long form Notice of Information Collection and Disclosure Practices.

### **Statutory Vehicle Notices**

The examiners found one violation of § 38.2-517 A of the Code of Virginia. The company's glass claim procedure did not properly disclose the use of a Third Party Administrator.

**Other Notices**

The company provided copies of three other notices including an application 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**

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

The company provided its Information Security Procedures for review.

## 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

Direct General Insurance Company shall:

Provide a Corrective Action Plan with the response to this Report.

### Rating and Underwriting Review

Direct General Insurance Company shall:

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

the file.

- (4) Specify accurate information in the policy by listing the correct model of the vehicle, the correct premium per vehicle, Towing and Labor Expense occurrence limits, and attaching only forms applicable to the policy on the declarations page.
- (5) Properly represent the benefits, coverage, advantages, and conditions of the policy by showing the correct expiration time on the declarations page.
- (6) Provide an AUD notice to the insured when the company increases the premium due to information that differs from that which the insured provided on the application.
- (7) Correctly apply points under a Safe Driver Insurance Plan.
- (8) 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, driver classification factors, and base and/or final rates as well as its rounding rule.
- (9) Provide the Credit Score Disclosure notice as required by § 38.2-2234 A of the Code of Virginia.

### **Termination Review**

Direct General Insurance Company shall:

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

the Bureau, the company acknowledges that it has refunded or credited the overcharges listed in the file.

- (4) Obtain a request to cancel from the Premium Finance Company prior to cancelling a policy.
- (5) Provide a written AUD notice to the insured.
- (6) Calculate earned premium according to the filed rules and policy provisions.
- (7) Obtain valid proof of mailing the notice of cancellation or nonrenewal to the insured and lienholder.
- (8) Cancel private passenger automobile policies only for those reasons permitted by § 38.2-2212 of the Code of Virginia when the notice is mailed after the 59<sup>TH</sup> day of coverage.
- (9) Send the cancellation notice at least 45 days before the effective date of cancellation when the notice is mailed after the 59<sup>TH</sup> day of coverage.
- (10) Send the cancellation notice to the address listed on the policy.
- (11) Advise the insured of the availability of other insurance through his agent, another insurer, or the Virginia Automobile Insurance Plan (VAIP).

### **Claims Review**

Direct General Insurance Company shall:

- (1) Correct the errors that caused the underpayments and overpayments and send the amount of the underpayment to insureds and claimants.
- (2) Include six percent (6%) simple interest in the amount paid to the insureds and claimants.
- (3) Complete and submit to the Bureau the enclosed file titled "Claims Underpayments Cited during the Examination." By returning the completed file to the Bureau, the company acknowledges that it has paid the underpayments

listed in the file.

- (4) Document the claim file so that all events and dates pertinent to the claim can be reconstructed.
- (5) Document the claim file to show that all applicable coverages have been discussed with the insured. Particular attention should be given to rental benefits under UMPD 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 repair estimates prepared by or on behalf of the company to insureds and claimants.
- (9) Properly represent pertinent facts or insurance provisions relating to the coverage at issue.
- (10) Implement reasonable standards for the prompt investigation of claims.

### **Forms Review**

Direct General Insurance Company shall:

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

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

Direct General Insurance Company shall:

- (1) Specify the required information in the policy by listing all of the applicable forms and lienholders on the declarations page.
- (2) Specify the required information in the policy by showing the expiration time on the declarations page.

### **Review of Statutory Notices**

Direct General Insurance Company shall:

- (1) Amend the glass claim notice to properly disclose the use of a Third Party Administrator.
- (2) Develop a long form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 B of the Code of Virginia.
- (3) Amend the Credit Score Disclosure notice to comply with § 38.2-2234 A 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 that the company take the following actions.

#### **Rating and Underwriting**

- The company should show the correct points on the declarations page.
- The company should correct its system to show the factors and discounts that are applied when rating a policy.

- The company should consider updating its MVR system.

### **Termination**

- The company should cancel for material misrepresentation only when there is evidence that the misrepresentation was material.

### **Claims**

- The company should note coverages on their checks using the same terminology as is used in the Personal Auto Policy (PAP). Instead of "Rental" the company should use the term Transportation Expense. Instead of "Comprehensive" the company should use the term "Other Than Collision."
- The company should send Reservation of Rights Letters only when appropriate.
- The company should take recorded statements only after obtaining permission from the person being recorded.
- The company should modify its Rental Authorization letter to include the wording "comparable substitute vehicle."

### **Forms**

- The company should correct grammatical and formatting errors in its Amendment of Termination Provisions form (VA021A).

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

The Bureau conducted a prior market conduct examination of the private passenger automobile line of business of Direct General Insurance Company as of December 31, 2007.

During the examination, the company violated §§ 38.2-305 A, 38.2-502, 38.2-510 A 3, 38.2-510 A 10, 38.2-511, 38.2-604 B, 38.2-610 A, 38.2-1812, 38.2-1822, 38.2-1905 A, 38.2-1906 D, 38.2-2208, 38.2-2212, 38.2-2214, 38.2-2230, and 38.2-2234 A of the

Code of Virginia; and 14 VAC 5-390-40 D, 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

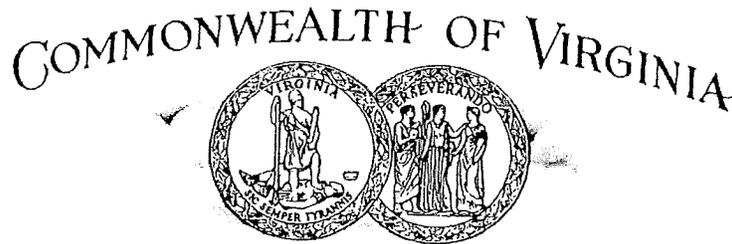
The courteous cooperation extended by the officers and employees of the company during the course of the examination is gratefully acknowledged.

Sincerely,

A handwritten signature in cursive script that reads "Karen S Gerber".

Karen S. Gerber  
Senior Insurance Market Examiner

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



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November 28, 2012

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

Stephanie Johnson  
Paralegal  
Direct General Insurance Company  
1281 Murfreesboro Road  
Nashville, VA 37217-2432

RE: Market Conduct Examination  
Direct General Insurance Company (NAIC # 42781)

Dear Ms. Johnson:

The Bureau of Insurance (Bureau) has conducted a market conduct examination of the above referenced company for the period of January 1, 2011 through December 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 October 1, 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, the company should provide a corrective action plan that addresses all of the issues identified in the examination. In some cases, the issues that should be addressed in the plan may be broader than those that are in Part Two of the Report.

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

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

The company's response and the spreadsheet mentioned above must be returned to the Bureau by January 10, 2013.

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

We look forward to your reply by January 10, 2013.

Sincerely,

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

# DIRECT GENERAL INSURANCE COMPANY

Constance A. Collins  
Senior Counsel & Assistant Secretary

Direct Dial: 877-665-8538  
Email: [connie.collins@directgeneral.com](mailto:connie.collins@directgeneral.com)

February 4, 2013

VIA EMAIL ([joy.morton@scc.virginia.gov](mailto:joy.morton@scc.virginia.gov))

Ms. Joy Morton  
Supervisor  
Market Conduct Section, P&C Division  
Virginia Bureau of Insurance  
P & C Market Conduct, 5<sup>th</sup> Floor  
1300 E. Main Street  
Richmond, VA 23219

RE: Market Conduct Examination  
Direct General Insurance Company (NAIC #42781)  
Exam Period: January 1, 2011 to December 31, 2011

Dear Ms. Morton:

The Virginia Bureau of Insurance (the Bureau) has recently completed a market conduct examination of the Direct General Insurance Company ("DGIC" or the "Company") for the period of January 1, 2011 through December 31, 2011 and has submitted its draft preliminary Examination Report (the "Draft Report") of the Company dated November 28, 2012 which we received on December 9, 2012. You graciously allowed us an extension until today to return our response which we sincerely appreciate. Please accept the following as our initial response to the Draft Report. With regard to our response, we respectfully request that it be kept confidential and exempt from public disclosure or inspection to the fullest extent permitted by Virginia law including but not limited to SS38.2-222.1, 38.2-222.2, 38.2-1320.5 and 38.2-1333 of the Code of Virginia.

## PART ONE – EXAMINER’S OBSERVATIONS

### RATING & UNDERWRITING REVIEW AUTOMOBILE NEW & RENEWAL BUSINESS

Under numbered paragraph 5(a) of the New Business Section, the examiners noted 25 instances where the company failed to use the correct discounts or surcharges. And, under numbered paragraph 4(a) of the Renewal Business Section, the examiners noted 25 instances where the company failed to use the correct discounts or surcharges.

We respectfully disagree with the examiner’s conclusions regarding the prior insurance discount and that the violations attributable to those findings be removed from the Report and that same be listed under the recommendation section instead. Our prior insurance discount rule provides that the applicant must provide verification of at least six months of continuous prior liability coverage, with no

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more than seven days of lapse in previous coverage allowed. If the applicant does not provide proof at the point of sale, the applicant is not eligible for the discount regardless of whether or not the applicant actually had qualifying prior insurance. Accordingly, if there was not documentation proving prior insurance in the insured's underwriting file, the presumption should have been that the Applicant did not provide us with the required proof and thus was ineligible for the discount. The examiners presumed that our agents did not ask applicants about their prior insurance experience. During the examination, we provided the examiners with ample evidence of our agent scripts and training. As further support, we ran A-plus Coverage Verifier (COVA) reports and provided copies to the examiners, which also illustrated the lack of verifiable coverage. The collective materials were voluminous so we have not provided additional copies with this response but incorporate them herein by this reference. We believe the totality of the evidence we provided to the examiners supports that

1. Our agents asked (and continue to ask) our applicants whether they have prior insurance
2. We were correct in not affording the prior insurance discount in those cases where the applicant did not give us the required proof at the time of application.

**TERMINATION REVIEW**

**Company Initiated – First 59 Days -**

Under numbered paragraph (3) the examiners found that our proof of mailing procedures did not comply with 38.2-2208.A.1.c because in certain instances the Company's statement that the United States Postal Service (USPS) Certificate of Bulk Mail corresponded to the Company's mailing list was not dated on the same date as the USPS receipt. The language in the statute is ambiguous and subject to interpretation. The clause "at the time of mailing," which is consistent with the time the carrier is to obtain the USPS receipt, is inconsistent with the future retention requirement pertaining to the mailing list and company statement. It is a common acceptable evidentiary rule for a business representative or records custodian to certify the authenticity and accuracy of business records that the company keeps in its ordinary course of business at dates subsequent to the creation of the original record. There is no requirement in the statute that the Company's statement has to be dated at all. We provided the examiners with a detailed summary of our postal proof of mailing process which is incorporated herein by reference and which clearly illustrates that the USPS receipt we obtain from the USPS representative corresponds with our mailing lists. Accordingly, we respectfully disagree that the process we had in place during the examination period does not comply with the statute and respectfully request that each of the alleged violations be removed that the BOI categorize this as a recommendation instead.

Under numbered paragraph 5(a), the examiner noted 2 instances where the company failed to provide 10 days advance notice of cancellation related to TPA001 (Review Sheet 1306328499) and TPA005 (Review Sheet 1988965973). However, our records indicate that the examiner withdrew TPA005/Review Sheet 1988965973 and we also provided the examiners with a copy of the 10-day Notice of Cancellation for TPA001/Review Sheet 1306328499. Accordingly, we respectfully request that these two violations be withdrawn from the report. Copies of the documentation in support of this request are enclosed for your reference as **EXHIBITS 1 and 2**.

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**Company Initiated – After 59 Days** – Except for the Company's position regarding its proof of mailing procedures per 38.2-2208.A.1.c. set forth above, the Company has no additional comments for this section.

**Nonpayment of Premium-** Except for the Company's position regarding its proof of mailing procedures per 38.2-2208.A.1.c., the Company has no additional comments for this section.

**Insured's Request** - The Company has no comments for this section.

**Premium Finance Company Request** - Under numbered paragraph (1), the examiner noted one violation of 14 VAC 5-390-40 D where the Company allegedly cancelled a policy without evidence of a request to cancel from the premium finance company. We have a copy of the premium finance company's request for cancellation, a copy of which is attached to this response as **EXHIBIT 3**.

**Nonrenewal-** Except for the Company's position regarding its proof of mailing procedures per 38.2-2208.A.1.c., the Company has no additional comments for this section.

**FORMS REVIEW** - The Company has no comments for this section.

**STATUTORY NOTICE REVIEW-** The Company has no comments for this section.

**PART TWO – CORRECTIVE ACTION PLAN**

**Rating & Underwriting Review**

- 1-2. **Refund / Credit overcharges with applicable interest. Plan to correct errors that caused overcharges and undercharges**
3. **Completed "Rating Overcharges Cited During the Examination" is enclosed**  
Except as explained herein, we have filled in the "Rating Overcharges Cited During the Examination" spreadsheet with the requested information and issued refunds/credits as directed. With regarding to RPA010, RPA018, RPA023, RPA029, RPA041 and RPA051, we disagree that that the insureds are entitled to the full amount cited. It appears that the BOI assumed the policies associated with these RPA's went to term; however, in each of the cases, the policies did not go to term and with regard to RPA041, the policy was void ab initio because the insured paid with a worthless check. As for the others, while we still disagree with the BOI's findings regarding application of the prior insurance discount, we accepted the BOI's rate calculations and determined the actual unearned premium (with 6% interest) taking into consideration the amount we actually received from the insured and the in-term cancellation effective dates. We have noted the revised amounts on the spreadsheet.

If the postal service returns any of the checks as undeliverable, the Company will process in accordance with its standard escheat process. See corrective action plan below for additional information on plans to avoid future occurrences of overcharges.

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4. **Provide Accurate Policy Information – vehicle information, premium per vehicle, Towing & Labor Expense occurrence limit and correct endorsement/policy form listing on Dec Page**  
We remediated this issue during the examination. Our Virginia Declarations Pages now reflect the correct terminology regarding occurrence limits for Towing and Labor. We have also corrected our Endorsement table so that the correct endorsements should list on the Dec Page. We are undertaking periodic audits of our Endorsement Table to ensure that the endorsement form numbers are programmed and printing properly going forward.
5. **Correct Expiration Time on Dec Page**  
We remediated this issue during the examination. Our Virginia Declarations Pages now show that the expiration is as of 12:01 a.m. Eastern Time.
6. **Provide AUD Notice upon Premium Increase**  
In this instance, we believe that the notice was given to the insured but our record could not be located. Notwithstanding the foregoing, we are in process of researching to identify to confirm that our Virginia Adverse Underwriting Notice is printing in all cases where it should have been. We will make necessary programming and process changes to our notification system to ensure that an Adverse Underwriting Notice is sent and copy retained any time a policy is updated, cancelled or nonrenewed for an underwriting reason.
7. **Apply correct points under Safe Driver Insurance Plan**  
We will conduct a review of violation mappings to ensure all chargeable convictions match up with the appropriate category. Only one violation we found was inappropriately classified as a Major. Other point assignment issues we found occurred when drivers were being added and removed during policy term, we will need to consider testing for this in the future to ensure rating system rates as intended.
8. **Use correct rates and rules as filed with Bureau. In particular regarding discounts, surcharges, points for accidents & convictions, symbols, tier assignment, driver classification base and/or final rates and rounding rules.**
  - 1) The UMBI Rounding Issue was corrected in September 2011 with a rate revision.
  - 2) The Tier Label Issue was corrected with a revised rule filing with explanation that we filed in February 2012.
  - 3) The vehicle symbol issues and discrepancies were sourced to difference between definitions in original Rules and Rates and a switch in vendors where not all data converted to the same symbol for a few vehicles. A new symbol set was introduced in September 2011 with a rate revision. We will make symbols for new model years and models periodically going forward in order to eliminate uncertainty. In addition, the new symbol set is defined by VIN so any change in source data by vendor will not affect assignment of symbols.
  - 4) We have reprogrammed our system to calculate the policy fee earned as premium instead of treating it as fully earned.
9. **Provide Credit Score disclosure**  
We remediated this issue during the examination by revising our application for automobile insurance to include the required language.

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10. **Obtain/retain signed UM selection/rejection form**

We believe this was an isolated incident and not an indication of a widespread issue. Nevertheless, we have and will continue to reinforce agent training regarding uninsured motorist coverage requirements, including importance of obtaining/retaining a signed selection/rejection form.

**Termination Review**

1-2. **Refund / Credit overcharges with applicable interest**

**Plan to correct errors that caused overcharges and undercharges**

3. **Completed "Termination Overcharges Cited During the Examination" is enclosed**

With regard to items 1-3 above, except as otherwise noted on the "Termination Rating Overcharges Cited During Examination" spreadsheet, refunds/credits have been issued as directed. If any check is returned by the United States Postal Service as undeliverable, the Company will process in accordance with its standard escheat process. See corrective action plan below for additional information on plans to avoid future occurrences of overcharges.

4. **Obtain/retain Premium Finance Company request to cancel form**

The Company obtained the Premium Finance Company's request; accordingly, there was no violation. In addition, the Company's affiliate that provides premium financing has ceased offering that in Virginia. That said, the Company will ensure that request to cancel forms from any premium finance company are maintained in accordance with State and Company record retention requirements.

5. **Provided AUD Notice to insured when applicable**

We are in process of researching to identify why our Virginia Adverse Underwriting Notice was not printing in all cases where it should have been. We will make necessary programming and process changes to our notification system to ensure that an Adverse Underwriting Notice is sent and copy retained any time a policy is uprated, cancelled or nonrenewed for an underwriting reason.

6. **Calculate Earned Premium according to filed rates/rules**

We have reprogrammed our system to calculate the policy fee earned as premium instead of treating it as fully earned.

7. **Obtain/retain valid Proof of Mailing**

Although we disagree with the BOI's findings concerning our Proof of Mailing Process, we have revised our process so that the statement of company representative is concurrent with the United States Postal Service Certificate of Bulk Mail.

8. **Only cancel for permitted reasons after 59<sup>th</sup> Day of coverage**

The violation noted during the examination was an isolated occurrence and was the result of human error. That said we are verifying our cancellation code tables to ensure that only statutory reasons are used after the 59<sup>th</sup> day of coverage and we are providing additional and

Ms. Joy Morton  
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recurring training for our underwriters to reinforce their knowledge re: proper cancellation procedures.

9. **Provide at least 45 days Notice of Underwriting Cancellation after 59<sup>th</sup> Day of coverage**  
The violation noted during the examination was an isolated occurrence and was the result of human error where the underwriter wrote in the incorrect cancellation date. As a general matter, our cancellations are automated and the notice timing is programmed according to state law. We have verified our programming for automated underwriting cancellation notices after 59 days is at 45 days for Virginia. Our Underwriters have been reminded of Virginia cancellation requirements, permissible reasons, and proper notice timing.
10. **Send Cancellation Notice to address listed on policy**  
We are in process of reforming our agent and mailing address confirmation program to ensure that any time an insured's address is changed mid term, the address change results in a revised Declaration Page and update to all insured data records in our insurance and billing systems. We expect this project to be completed within the next 4 months.
11. **Inform insured about availability of other insurance through his agent, another insurer or the Virginia Automobile Insurance Plan (VAIP).**  
This issue was remediated during the examination all Virginia Cancellation Notices now include the disclosure regarding availability through the Virginia Automobile Insurance Plan.

#### Claims Review

In addition to the below specific action items Direct will be conducting a specific seminar with all Va claim handling professionals to review the new processes, templates and QA items identified below as well as specific execution items noted in the Exam. This meeting will occur in the next thirty (30) days.

- 1-2. **Refund / Credit overcharges with applicable interest**  
**Plan to correct errors that caused overcharges and undercharges**
  - See below re specific action plan items re plan to correct errors
  - Claim supplemental payments have been issued as directed. If any check is returned by the United States Postal Service as undeliverable, the Company will process in accordance with its standard escheat process.
3. **Completed "Claims Overcharges Cited During the Examination" is enclosed**
  - Enclosed.
4. **Document claims file so that all events and dates pertinent to the claim can be reconstructed**
  - See below re specific action plan items re claim file documentation
5. **Document claims file to verify that all applicable coverages have been discussed with insured. Particular attention to be paid to rental benefits under UMPD coverage.**
  - Letters and correspondence acknowledging claims and corresponding with insureds and claimants thereafter are being revised to accurately reflect applicable coverages including those issues noted in the exam (programming changes have been submitted already and will take effect on next system update):
    - See below in number 9 re specific changes that have been made

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6. **Acknowledge correspondence that reasonably suggests a reply is expected from insureds/claimants within 10 days**
  - Timely responses to claims communications are an important aspect of all claims handling. A specific Memo to all VA claim handlers on the requirements specific to VA has been drafted and will be rolled out to claim handlers in a workshop training environment in team level meetings.
7. **Offer insured an amount that is fair and reasonable as shown by investigation of the claim and pay claims in accordance with policy provisions**
  - Claim communications are being updated as discussed elsewhere to ensure that all payments are in accordance with the appropriate coverages and coverage provisions.
  - The QA process is being actively utilized today and will continue to be utilized to review all files for both under and over payments and individual performance failures will be addressed with the applicable claim professionals and leadership
  - Process and forms have already been updated to reflect correct calculations for tax, tag, and title transfer fees.
8. **Provide copies of repair estimates prepared by or on behalf of the company to insureds or claimants**
  - Direct's general practice is and remains to provide copies of estimates with correspondence to the insured and claimants. Our templates have been revised to reflect both that the estimates are enclosed and the applicable coverages under which the claim is being handled. (Programming changes concerning the clarification of coverages have been submitted and will take effect on the next release date. Enclosures of the estimates has already been completed)
9. **Properly represent pertinent facts or insurance provisions relating to the coverage at issue**
  - Letters and correspondence acknowledging claims and corresponding with insureds and claimants thereafter are being revised to accurately reflect applicable coverages including those issues noted in the exam (programming changes have been submitted already and will take effect on next system update):
    - Claim acknowledgement letters now identify through programming and direct system data feeds all coverages available under the policy as well as any applicable deductibles.
    - References to "Comprehensive" coverage are being clarified to reflect "Other Than Collision"
    - Reference to "Rental Reimbursement" are being clarified to reflect "Transportation Expense" coverage
    - Disclosures of Uninsured Motorists PD and Underinsured Motorists PD coverages are being revised to reflect the inclusion of rental benefits.
  - Reservation of Rights letters
    - A specific training module for Claims Communications is in development and will include a specific section on Reservations of Rights with practice exercises. All claim professionals handling or supervising Va claims will participate.
    - In order to ensure the quality and appropriate use of ROR's, all VA ROR's will require Team Leader level review and approval prior to sending.

Ms. Joy Morton  
February 4, 2013  
Page 8

- A process update communications with ROR requirements and practice tips has been drafted and will be rolled out in individual team meetings.
- 10. **Implement reasonable standards for prompt investigation of claims.**
  - It is and remains Direct's practice to timely and appropriately handle claims. Review of the specific file issues in the exam suggests execution errors.
    - Subsequent to the completion date of most of the files involved in the examination, Direct has undertaken a substantial renovation of its Quality Assurance Process and is already auditing files to many of these standards. Where the QA process does not presently address it will be revised to do so.
      - File Documentation issues – the QA process now includes a specific section on file documentation quality and completeness to include both the quality of file notes and the completeness of file documentation including but not limited to claim denial letters.
      - Claim Delay letters – the QA process reviews for compliance with these requirements
      - The QA process addresses direct payment authorization letters to medical providers.
      - The QA process addresses any failures to make correct payments. (i.e. including lienholders on checks, issuing checks under correct coverages, proper calculation of sales tax, and title and or tag/transfer fees on total loss claims.
    - Timely responses to claims communications are an important aspect of all claims handling. A specific Memo to all VA claim handlers on the requirements specific to VA has been drafted and will be rolled out to claim handlers in a workshop-training environment in team level meetings.
  - Direct has revised its Bodily Injury releases and claim settlement confirmation letters as well as its work flow process for early Bodily Injury Settlements to notify the unrepresented claimant of the right to rescind a release for Bodily Injury Claims executed within the first thirty (30) days after a loss in accordance with § 8.01-425.1 Code of Virginia
  - Direct has previously added the statement regarding insurance fraud to all claim forms required by the company, including releases where were noted in the Exam to be missing the statement. The files reviewed were concluded prior to this forms change.

#### Forms Review

##### 1. Use standard automobile forms filed and adopted by Bureau

We have reintegrated the Suspension of Insurance endorsement (PP 02 01 01 05) and the Reinstatement of Insurance endorsement (PP 02 02 08 86) so that each is ready and available for use when applicable.

##### 2. Use precise language of the automobile insurance forms as filed and approved by bureau

We revised our Custom Parts and Equipment Schedule to remove the coverage limitations that were inconsistent with the State standard Miscellaneous Vehicle Endorsement.

#### Policy Issue Process

CONFIDENTIAL

Ms. Joy Morton  
February 4, 2013  
Page 9

**1. List all applicable forms and lienholders on the Declarations Page.**

It appears this issue was caused by a default program in our AS/400 system that will not allow a lienholder to be listed if the policy does not include comprehensive and collision coverage. We think this has been/will be a rare event as most lienholders/loss payees require their borrowers to secure physical damage coverage. That said we are working to fixing this programming restriction and anticipate that our programmers can have this remediation completed within three months.

**2. Correct Expiration Time on the Declaration Page**

We remediated this issue during the examination. Our Virginia Declarations Pages now show that the expiration is as of 12:01 a.m. Eastern Time.

**Review of Statutory Notices**

**1. Amend Glass Claim Notice to disclose use of third party administrator.**

This was remediated during the exam. We revised our Glass Claim Script to specifically notify the insured claimant of the use of a third party vendor. Written notices of the use of a third party vendor will also be implemented.

**2. Develop Long form Notice of Information Collection and Disclosure Practices**

We have remediated this issue. A copy of the Long Form we have prepared for use should the need arise is enclosed.

**3. Amend Credit Score Disclosure Notice**

We remediated this issue during the examination by revising our application to include the required language, a copy of which is enclosed with the relevant information highlighted.

**PART THREE – RECOMMENDATIONS**

The recommendations noted in the examination report are being taken under advisement and given the attention they deserve.

**CONCLUSION**

Based on the information we have provided, we respectfully request that the Draft Report be revised to remove the findings we identified above and that the Bureau recognizes the remediation efforts that we have already undertaken and are in the process of undertaking on the remaining issues.

It is our understanding that a revised draft will be prepared based on this response and that we will have an additional opportunity to review the findings and further refine our corrective action plan as needed.

If you have any questions or need additional information please contact me directly at 877-665-8538.

Sincerely,

Direct General Insurance Company

CONFIDENTIAL

Ms. Joy Morton  
February 4, 2013  
Page 10

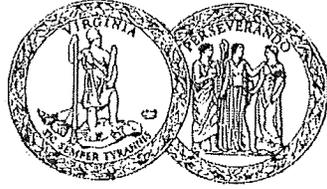
By:   
Constance A. Collins  
Senior Counsel & Assistant Secretary

Cc: Kelly Gray, Esq. Claims Legal  
Chris LaGow, Esq.

Enclosures

# 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/b>

April 5, 2013

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

Stephanie Johnson  
Paralegal  
Direct General Insurance Company  
1281 Murfreesboro Road  
Nashville, VA 37217-2432

RE: Market Conduct Examination  
Direct General Insurance Company (NAIC # 42781)  
Exam Period: January 1, 2011-December 31, 2011

Dear Ms. Johnson:

The Bureau of Insurance (Bureau) has reviewed Direct General Insurance Company's February 4, 2013, response to the Preliminary Market Conduct Report (Report). The Bureau has referenced only those items in which the Company has disagreed with the Bureau's findings, or items that have changed in the Report. This response follows the format of the Report.

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

### **Automobile New Business**

- (5a) The violations in this section remain in the Report. The Company's application does not address the prior insurance discount. The Company's agents are inconsistent in requesting prior insurance information during the recorded phone applications. The Company does not consistently inquire about prior insurance or consistently advise the insureds of the availability of the discount.

### **Automobile Renewal Business**

- (4a) The violations in this section remain in the Report. These violations pertain to the Rate Cap factors and the Multi Product discount. These violations are not for failing to apply the Prior Insurance discount.

## **Company Initiated – Cancellations**

### NOTICE MAILED PRIOR TO THE 59TH DAY OF COVERAGE

- (3) The violations in this section remain in the Report. There are two issues with the Company's proof of mailing. First, the Company did not have a valid signed statement that the written receipt from the USPS corresponded with the mailing list. The Company was cited for these same violations during the prior examination. The Company's September 1, 2008, response to the Bureau states that this problem was remediated as of August 1, 2008. Second, the Company did not have a valid mailing list. The statute is clear in that "the statement is obtained at the time of mailing". The statute does not imply that the time of mailing can be any given time in the future.
- (5a) TPA001 remains in the Report. The Company's cancellation notice was mailed on the date of cancellation. The proof of mailing is date stamped November 4, 2011. The cancellation date is November 4, 2011. Ten days notice of cancellation is required by the statute.

TPA005 was withdrawn and the violation was later reinstated. The Company did not provide evidence of advance notice of cancellation. The information provided was a notice dated December 16, 2011, advising the insured that the policy was going to cancel; however, the notice did not include an effective date of cancellation. The Company also provided a notice processed December 27, 2011, advising the insured that policy cancelled December 27, 2011.

### NOTICE MAILED AFTER THE 59TH DAY OF COVERAGE

- (2) TPA011 remains in the Report. The Company presented two receipts. One was signed by the USPS and not by the Company, as required by the statute. The second receipt was not signed by the Company at the time of mailing.

## **Nonpayment of Premium Cancellations**

- (2) The violations in this section remain in the Report. The Company did not have a valid signed statement that the written receipt from the USPS corresponded to the mailing list. The statute is clear that the statement should be obtained at the time of mailing.

## **Cancellations Requested by the Premium Finance Company**

- (1) The violation for TPA042 remains in the Report. The Company's Exhibit 3 does not apply to this policy.

### Company Initiated Non-renewals

- (2) The violations in this section remain in the Report. The Company did not have a valid signed statement that the written receipt from the USPS corresponded to the mailing list. The statute is clear that the statement should be obtained at the time of mailing.

### PART TWO CORRECTIVE ACTION PLAN

#### Rating and Underwriting

- (3) The Company must provide evidence of the cancellations of the policies for RPA010, RPA018, RPA023, RPA029, RPA041, and RPA051 before the Bureau is able to reconsider the restitution calculations.

#### Claims

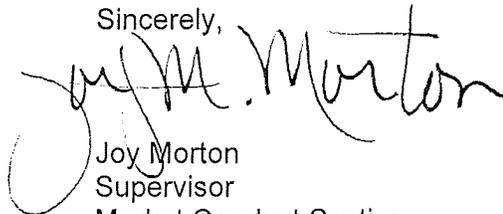
- (2) The Company overpaid the restitution to the claimants and/or insureds. The spreadsheet provided by the Bureau included the 6% interest as is noted in Column H. It appears that the Company paid compounded interest.
- (3) The Company failed to include the amount of the check for reference number CPA004.

#### Notices

- (2) The Company failed to include a copy of the Notice of Information Collection and Disclosure Practices.
- (3) The Company failed to include a copy of the Credit Score Disclosure notice.

Enclosed with this letter is a revised version of the Report, technical reports, the Restitution spreadsheets and any review sheets that have been withdrawn, added or altered as a result of this review. The Company's response to this letter is due in the Bureau's office by April 26, 2013.

Sincerely,



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

# DIRECT GENERAL INSURANCE COMPANY

Constance A. Collins  
Senior Counsel & Assistant Secretary

Direct Dial: 877-665-8538  
Email: [connie.collins@directgeneral.com](mailto:connie.collins@directgeneral.com)

April 24, 2013

VIA EMAIL ([joy.morton@scc.virginia.gov](mailto:joy.morton@scc.virginia.gov))

Ms. Joy Morton, Supervisor  
Market Conduct Section, P&C Division  
Virginia Bureau of Insurance  
P & C Market Conduct, 5<sup>th</sup> Floor  
1300 E. Main Street  
Richmond, VA 23219

RE: Market Conduct Examination  
Direct General Insurance Company (NAIC #42781)  
Exam Period: January 1, 2011 to December 31, 2011

Dear Ms. Morton:

Thank you for your April 5, 2013 letter explaining the Bureau's response to our requests for revisions to the Report on Examination, and which enclosed the second draft of the Report (the "Second Draft"). Please accept the following as the Company's follow up response to certain items in the report and to your request for additional information.

## PART ONE – EXAMINER'S OBSERVATIONS

### RATING & UNDERWRITING REVIEW AUTOMOBILE NEW & RENEWAL BUSINESS

5(a): We recognize that the Bureau may be unwilling to revise the report; however, we maintain our position and continue to respectfully disagree with the examiner's conclusions regarding the prior insurance discount. We renew our request that the Bureau remove these as violations list them as recommendations instead. As we noted during the examination and in our initial response to the first draft of the Report on Examination, we believe the totality of the evidence we provided to the examiners supports that:

1. Our agents asked (and continue to ask) our applicants whether they have prior insurance
2. We were correct in not affording the prior insurance discount in those cases where the applicant did not give us the required proof at the time of application.

### TERMINATION REVIEW

#### Company Initiated – First 59 Days

(3) We acknowledge that in our prior examination we were cited for §38.2-2208A violations, but to clarify, at that time we were lacking the statement by the company representative. The corrective action plan we submitted in 2008 included a copy of the statement we intended to use, which is the same version we provided in connection with this examination. Typical rules of evidence allow the records custodian of a company to certify a business record's accuracy at any point in time if the records are kept in the ordinary course of business, such as our notices and U.S. Postal proof of mailing documentation. As such, we were under the reasonable belief that the process we were following is compliant and that the company representative statement did not need to be signed on the same date as the proof of mailing list. That said, as

CONFIDENTIAL

Ms. Joy Morton  
April 24, 2013  
Page 2

we noted in our initial response, we have revised our process so that now our company representative statements are contemporaneous with our mailing lists and postal receipts.

5(a), We respectfully request that the Bureau revisit our requests to remove these violations.

Regarding TPA001 (Review Sheet 1306328499) I have enclosed copies of the advanced notice of cancellation that is dated October 26, 2011 together with the excerpt from the proof of mailing list showing the insured's policy number, name and address dated October 26, 2011 and the United States Bulk Mailing stamped October 26, 2011. Please see attached EXHIBIT 1. Our prior responses had also included copies of our Confirmation of Cancellation notice along with its proof of mailing which were dated November 4, 2011.

Regarding TPA005, I have provided another copy of our Notice of Underwriting Cancellation that was mailed on December 16, 2011 marked as EXHIBIT 2. The Notice reflects that cancellation is effective on December 27, 2011. For your ease of reference, I have highlighted the dates.

Accordingly, we again respectfully request that these two violations be withdrawn from the report.

**Premium Finance Company Request – TPA042**

- (1) I inadvertently attached the wrong document to our initial response. Attached as EXHIBIT 3 is the correct copy of the premium finance company's request for cancellation for TPA042 (██████████). Based on this supplemental information, we respectfully request that this violation be withdrawn from the report.

**PART TWO – CORRECTIVE ACTION PLAN**

**Rating & Underwriting Review**

- 1-2. **Refund / Credit overcharges with applicable interest. Plan to correct errors that caused overcharges and undercharges**
3. **Completed "Rating Overcharges Cited During the Examination" is enclosed**  
Pursuant to your request, enclosed as EXHIBIT 4 are copies of the cancellation and rescission notices that illustrate that the policies that are the subject of RPA010, RPA018, RPA023, RPA029, RPA041 did not go to term and therefore a full refund of premium is not warranted. If you need additional information, please let me know

With regard to RPA051, we erred in including that in our disputed list. We have updated the refund chart to show that the full requested refund has been paid to the insured. A revised Restitution Worksheet is enclosed.

**Claims Review**

- (3) **Completed "Claims Overcharges Cited During the Examination" is enclosed**
- The amount of the check we sent for reference number CPA004 is \$658.74. This is included in the revised Restitution Worksheet provided herewith.
  - As you noted, our claims personnel brought the interest amount current to the date their supplemental checks were issued; and therefore was more than the amounts requested by the Bureau.

**Review of Statutory Notices**

- (2) **Long form Notice of Information Collection and Disclosure Practices and (3) Credit Score Disclosure**  
I apologize for omitting these from our initial response. A copy of our new Long Form Information Collection and Disclosure Practice is enclosed as EXHIBIT 5. The Credit Score disclosure is incorporated in our application (please

CONFIDENTIAL

Ms. Joy Morton  
April 24, 2013  
Page 3

see page 3 of the application, Section captioned "MVR and Consumer Report Consent"), a copy of which is enclosed as EXHIBIT 6.

We respectfully incorporate by reference the other aspects of our corrective action plan that was set forth in our February 4, 2013 letter.

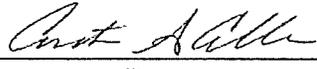
CONCLUSION

Based on the information we have provided, we respectfully request that the Draft Report be revised to remove the findings we identified above and that the Bureau recognizes the remediation efforts that we have already undertaken and are in the process of undertaking on the remaining issues.

If you have any questions or need additional information please contact me directly at 877-665-8538.

Sincerely,

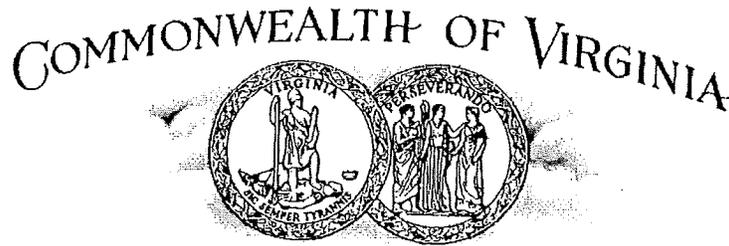
Direct General Insurance Company

By:   
Constance A. Collins  
Senior Counsel & Assistant Secretary

Cc: Chris LaGow, Esq.

Enclosures

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



P.O. BOX 1157  
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TDD/VOICE: (804) 371-9206  
[www.scc.virginia.gov/boi](http://www.scc.virginia.gov/boi)

June 7, 2013

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

Stephanie Johnson  
Paralegal  
Direct General Insurance Company  
1281 Murfreesboro Road  
Nashville, TN 37217-2432

RE: Market Conduct Examination  
Direct General Insurance Company (NAIC # 42781)  
Exam Period: January 1, 2011–December 31, 2011

Dear Ms. Johnson:

The Bureau of Insurance (Bureau) has reviewed Direct General Insurance Company's April 24, 2013 response to the Preliminary Market Conduct Report (Report). The Bureau has referenced only those items in which the Company has disagreed with the Bureau's findings or items that have changed in the Report. This response follows the format of the Report.

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

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

- (5a) The violations in this section remain in the Report. The Company has not provided any additional information that would cause the Bureau to reconsider its initial findings. The Company does not consistently inquire about prior insurance or consistently advise the insureds of the availability of the prior insurance discount.

##### **Automobile Renewal Business**

- (10) After further review the violation for TPA072 has been withdrawn.

##### **Company-Initiated Cancellations**

##### **Notice Mailed Prior to the 59th Day of Coverage**

- (5a) The violation for TPA001 remains in the Report. The Company has provided a Cancellation notice mailed on October 26, 2011 to be effective on November 4, 2011. A notice mailed on October 26 for a November 4 cancellation is not ten days notice of cancellation.

The violation for TPA005 has been withdrawn from the Report. The Company has provided valid proof of mailing the Cancellation notice to the insured.

### **Cancellations Requested by the Premium Finance Company**

- (1) The violation for TPA042 remains in the Report. The information provided in the Company's population files, used for sampling, included a Premium Finance Company requested termination effective April 4, 2011. The Bureau requested this record for review during the examination. The cancellation information provided in the company's response was effective February 20, 2011. The Company has failed to provide the information requested for the examination.

The Company submitted the Restitution Spreadsheet but omitted the restitution records for the overcharges on the Premium Finance policies. The Company needs to provide the restitution information in an updated spreadsheet.

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

#### **Rating and Underwriting**

- (3) The premium overcharges for RPA010, RPA018, RPA023, and RPA029 have been amended to reflect the cancellation dates provided by the Company. The Company is to include six percent (6%) interest refunded and/or credited to the insureds' accounts.

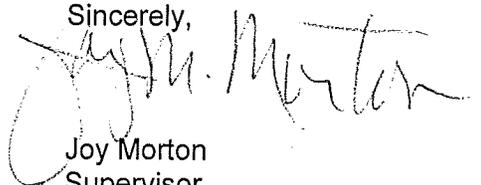
The overcharge for RPA041 has been removed from the Restitution Spreadsheet. The Company provided evidence that the policy was cancelled flat.

#### **Terminations**

- (3) The Company failed to include in its Restitution Spreadsheet evidence of restitution for the Premium Finance Company requested terminations. Please complete the enclosed revised Restitution Spreadsheet.

Enclosed with this letter is a revised version of the Report, technical reports, the Restitution Spreadsheets, and any review sheets that have been withdrawn, added, or altered as a result of this review. The Company's response to this letter is due in the Bureau's office by June 26, 2013.

Sincerely,



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

# DIRECT GENERAL INSURANCE COMPANY

Constance A. Collins  
Senior Counsel & Assistant Secretary

Direct Dial: 877-665-8538  
Email: [connie.collins@directgeneral.com](mailto:connie.collins@directgeneral.com)

June 24, 2013

VIA EMAIL ([joy.morton@scc.virginia.gov](mailto:joy.morton@scc.virginia.gov))

Ms. Joy Morton, Supervisor  
Market Conduct Section, P&C Division  
Virginia Bureau of Insurance  
P & C Market Conduct, 5<sup>th</sup> Floor  
1300 E. Main Street  
Richmond, VA 23219

RE: Market Conduct Examination  
Direct General Insurance Company (NAIC #42781)  
Exam Period: January 1, 2011 to December 31, 2011

Dear Ms. Morton:

Thank you for your June 7, 2013 letter explaining the Bureau's response to our April 24, 2013 comments and requests for revisions to the "Second Draft" of the Market Conduct Examination Report. Please accept the following as the Company's follow up response to certain items in the report and to your request for additional information.

## PART ONE – EXAMINER'S OBSERVATIONS

### RATING & UNDERWRITING REVIEW

#### AUTOMOBILE NEW & RENEWAL BUSINESS

5(a): We recognize that the Bureau is unwilling to revise the report; however, we maintain our position and continue to respectfully disagree with the examiner's conclusions regarding the prior insurance discount.

### TERMINATION REVIEW

#### Company Initiated – First 59 Days

5(a): Regarding TPA001 (Review Sheet 1306328499) we had counted the mailing and cancel dates in our 10 day calculation. We acknowledge we should not have counted those days and so we gave fewer than 10 days notice in this case.

#### Premium Finance Company Request – TPA042

(1) Regarding TPA042 (~~XXXXXXXXXX~~), Direct General Insurance Company received two Notices of Cancellation from the Premium Finance Company in 2011. First was received on February 20, 2011. The Insured asked for reinstatement, which was granted, but he cancelled again for nonpayment to the Premium Finance Company on April 4, 2011. Copies of the two Notices of Cancellation Direct General received from the Premium Finance Company are enclosed. We had thought both of these notices had been previously provided to the examiners and apologize for any oversight. Based on this information we request that this violation be removed from the report.

CONFIDENTIAL

Ms. Joy Morton  
June 24, 2013  
Page 2

Regarding the Restitution Spreadsheet related to overcharges on Premium Financed policies, the initial worksheet provided to us did not include those items. However, they have now been added to the Restitution Spreadsheet and the refunds with applicable interest have been issued to the policyholders.

**PART TWO – CORRECTIVE ACTION PLAN**

**Rating & Underwriting Review**

- 1-2. **Refund / Credit overcharges with applicable interest. Plan to correct errors that caused overcharges and undercharges**
3. **Completed "Rating Overcharges Cited During the Examination" is enclosed**  
We amended the Restitution Spreadsheet to reflect the revised amounts together with the date we sent the restitution checks to the insureds for RPA010, RPA018, RPA023, and RPA029. The restitution checks included the applicable 6% interest.

**Terminations**

- (3) We revised the Restitution Spreadsheet to include evidence of restitution related to Premium Finance Company requested cancellations.

**CONCLUSION**

Based on the information we have provided, we respectfully request that the Draft Report be revised to remove the finding we identified above.

If you have any questions or need additional information please contact me directly at 877-665-8538.

Sincerely,

Direct General Insurance Company

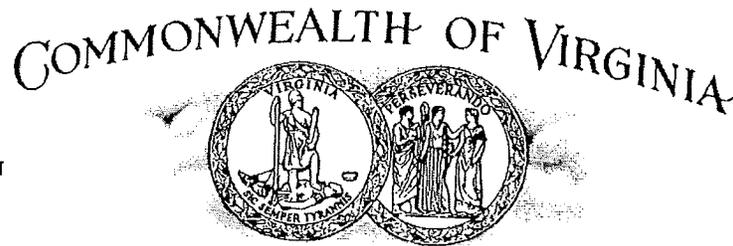
By: 

Constance A. Collins  
Senior Counsel & Assistant Secretary

Cc: Chris LaGow, Esq.

Enclosures

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



P.O. BOX 1157  
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TDD/VOICE: (804) 371-9206  
[www.scc.virginia.gov/boi](http://www.scc.virginia.gov/boi)

July 15, 2013

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

Stephanie Johnson  
Paralegal  
Direct General Insurance Company  
1281 Murfreesboro Road  
Nashville, TN 37217-2432

RE: Market Conduct Examination  
Direct General Insurance Company (NAIC # 42781)  
Exam Period: January 1, 2011 - December 31, 2011

Dear Ms. Johnson:

The Bureau of Insurance (Bureau) has concluded its review of the company's response of June 24, 2013. 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 Direct General Insurance Company (Report), withdrawn review sheets and updated technical reports.

### **Terminations**

#### Premium Finance Cancellations

- (1) The violation for TPA042, for failing to obtain a request from the premium finance company for the premium finance company cancellation has been withdrawn and the Report has been renumbered to reflect this change.

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 A1, 38.2-510 A3, 38.2-517 A, 38.2-604 B, 38.2-610 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, 38.2-2220, and 38.2-2234 A of the Code of Virginia; and 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-50 C, 14 VAC 5-400-70 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.

Ms. Johnson  
July 15, 2013  
Page 2

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

Sincerely,

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

DIRECT GENERAL INSURANCE COMPANY

1281 Murfreesboro Road, Nashville TN 37217

Constance A. Collins  
Senior Counsel & Assistant Secretary

STATE CORP COMMISSION  
BUREAU OF INSURANCE  
Direct Dial: 877-665-8538  
Email: connie.collins@directgeneral.com

August 9, 2013 AUG 12 AM 8:57

VIA FEDERAL EXPRESS

Ms. Mary Bannister  
Deputy Commissioner - Property & Casualty  
Virginia Bureau of Insurance  
1300 E. Main Street  
Richmond, VA 23219

400088

RE: Market Conduct Examination  
Direct General Insurance Company (NAIC#42781)  
Exam Period: January 1, 2011 through December 31, 2011 - Settlement Offer

Dear Ms. Bannister:

This will acknowledge receipt of the Bureau of Insurance's letter dated July 19, 2013 concerning the above referenced matter.

We wish to make a settlement offer on behalf of the insurance company listed above for the alleged violations of §§ 38.2.2-305 A, 38.2-502, 38.2-510 A1, 38.2-510 A3, 38.2-517 A, 38.2-604 B, 38.2610 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, 38.2-2220, and 38.2-2234 A of the Code of Virginia as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-50 C, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D of the Virginia Administrative Code.

1. We enclose with this letter a check made payable to the Treasurer of Virginia in the amount of \$45,000.00.
2. We agree to comply with the corrective action plan set forth in the company's letters dated February 4, 2013, April 24, 2013 and June 24, 2013.
3. We confirm that restitution was made to 73 consumers for \$21,558.21 in accordance with the company's letters of February 4, 2013, April 24, 2013 and June 24, 2013.
4. We further acknowledge the company's right to a hearing before the State Corporation Commission in this matter and waive the right if the State Corporation Commission accepts this offer of settlement.

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

Sincerely,

DIRECT GENERAL INSURANCE COMPANY

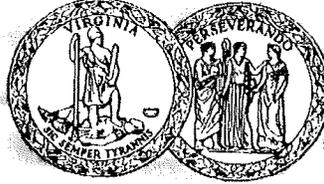
By: Constance A. Collins  
Constance A. Collins  
Senior Counsel & Assistant Secretary  
August 9, 2013

Enclosure

cc: John Mullen, President & CEO  
Chris LaGow, Esq.

# COMMONWEALTH OF VIRGINIA

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



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

Direct General Insurance Company has tendered to the Bureau of Insurance the settlement amount of \$45,000.00 by its check numbered 00214229 and dated August 9, 2013, a copy of which is located in the Bureau's files.

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

130830220

AT RICHMOND, AUGUST 26, 2013

SEC-CLERK'S OFFICE  
DOCUMENT CONTROL CENTER

2013 AUG 26 A 9 08

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2013-00189

DIRECT GENERAL INSURANCE COMPANY,  
Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Direct General Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-305 A of the Code of Virginia ("Code") by failing to provide the information required by the statute in 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 B, 38.2-610 A, and 38.2-2234 A of the Code by failing to accurately provide the required notices to insureds; violated § 38.2-1905 C of the Code by assigning points under a safe-driver insurance policy to any vehicle other than the vehicle customarily driven by the operator responsible for incurring points; violated § 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendant; violated §§ 38.2-2208 A, 38.2-2208 B, 38.2-2212 D, and 38.2-2212 E of the Code by failing to properly terminate policies; violated § 38.2-2220 of the Code by using forms that did not contain the precise language of the standard forms filed and adopted by the Commission; and violated §§ 38.2-510 A (1), 38.2-510 A (3), 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 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 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 Forty-five Thousand Dollars (\$45,000), waived its right to a hearing, agreed to comply with the corrective action plan set forth in its letters to the Bureau dated February 4, 2013, April 24, 2013, and June 24, 2013, and confirmed that restitution was made to 73 consumers in the amount of Twenty-one Thousand Five Hundred Fifty-eight Dollars and Twenty-one Cents (\$21,558.21).

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.

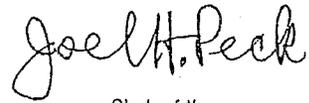
Accordingly, IT IS ORDERED THAT:

(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: Constance Collins, Esquire, Direct General Insurance Company, 1281 Murfreesboro Road, Nashville, Tennessee 37217-2432; 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