

MARKET CONDUCT EXAMINATION REPORT

OF

SAFE AUTO INSURANCE COMPANY

AS OF

March 31, 2019

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

**Property and Casualty Division
Market Conduct Section**

COMMONWEALTH OF VIRGINIA



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STATE CORPORATION COMMISSION BUREAU OF INSURANCE

I, Andrea D. Baytop, Principal Insurance Market Examiner of the Bureau of Insurance, do hereby certify that the annexed copy of the Market Conduct Examination Report of Safe Auto Insurance Company as of March 31, 2019, conducted at the company's office in Columbus, Ohio is a true copy of the original Report on file with the Bureau and also includes a true copy of the company's responses to the findings set forth therein, and a true copy of the Bureau's review letters and the State Corporation Commission's Order in Case Number INS-2020-00179 finalizing this 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 16th day of October 2020.

A handwritten signature in cursive script that reads "Andrea Baytop".

Examiner in Charge

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TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
INTRODUCTION	3
COMPANY PROFILE.....	3
SCOPE OF THE EXAMINATION	6
STATISTICAL SUMMARY	7
PART ONE - THE EXAMINERS' OBSERVATIONS	9
RATING AND UNDERWRITING REVIEW.....	9
Automobile New Business Policies	9
Automobile Renewal Business Policies.....	10
TERMINATION REVIEW	11
Company-Initiated Cancellations - Automobile Policies.....	11
Notice Mailed Prior to the 60 th Day of Coverage	11
Notice Mailed After the 59 th Day of Coverage.....	12
All Other Cancellations - Automobile Policies.....	13
Nonpayment of Premium.....	13
Requested by the Insured	13
Company-Initiated Non-renewals - Automobile Policies	14
CLAIMS REVIEW	14
Private Passenger Automobile Claims	14
FORMS REVIEW	18
Automobile Policy Forms	18
Policy Forms Used During the Examination Period	18
Policy Forms Currently Used	18
POLICY ISSUANCE PROCESS REVIEW	19
Automobile Policies.....	19
New Business Policies	19
Renewal Business Policies.....	19

STATUTORY NOTICES REVIEW	20
General Statutory Notices	20
Statutory Vehicle Notices	21
Other Notices	21
LICENSING AND APPOINTMENT REVIEW	21
Agency	21
Agent	21
COMPLAINT-HANDLING PROCESS REVIEW	21
PRIVACY AND INFORMATION SECURITY PROCEDURES REVIEW.....	22
PART TWO – CORRECTIVE ACTION PLAN	23
General.....	23
Rating and Underwriting Review	23
Termination Review	24
Claims Review	25
Forms Review	26
Policy Issuance Process Review.....	26
Statutory Notices Review	26
Complaint-Handling Process Review	26
PART THREE – RECOMMENDATIONS.....	27
RECOMMENDATIONS	27
Rating and Underwriting.....	27
Termination.....	27
Claims.....	27
Statutory Notices.....	28
SUMMARY OF PREVIOUS EXAMINATION FINDINGS.....	28
ACKNOWLEDGEMENT.....	29

EXECUTIVE SUMMARY

The examination included a detailed review of Safe Auto Insurance Company's private passenger automobile line of business in Virginia for the period beginning April 1, 2018 and ending March 31, 2019. This review included rating and underwriting, policy terminations, claims handling, forms, policy issuance, statutory notices, agent/agency licensing and appointments, complaint-handling, and information security practices.

This is the second Market Conduct Examination the Bureau of Insurance (Bureau) has performed on this company. The examination was called as a result of the Market Conduct Annual Statement (MCAS), a review of the company's current practices, and findings in the prior market conduct examination.

The examination revealed 291 total violations. There were 84 rating and underwriting violations and 35 termination violations. In addition, the company failed to comply with the statute requirements for the complaint register.

In the area of claims there were 161 violations and five general business practices (GBP). The violations that rose to the level of a GBP were failure to document the claim file with enough specificity to recreate the events of the claim, failure to disclose all of the pertinent coverages to the insured, failure to offer the insured a fair and reasonable amount, failure to include the coverage under which payment was made on the check or an accompanying document and misrepresenting coverage issues.

In contrast, there were no agent/agency violations, only one form violation, seven violations in the area of policy issuance, and two notice violations.

The Corrective Action Plan (CAP) for rating and underwriting requested that the company specify accurate information on the declarations page, verify traffic violation conviction dates, remove all references to excluded drivers, and use the rules and rates on file with the Bureau.

The CAP for terminations requested that the company calculate earned premium according to the filed rules and policy provisions.

The claims CAP requested that the company document all files with the information necessary to recreate events of the claim, disclose to the insured all coverages applicable to the loss, offer an amount that is fair and reasonable, include a statement of coverage under which payment was made with the checks sent to the insured, properly represent coverages at issue, make medical payments directly to the insured without a valid AOB, and finally, that the company conduct an internal audit of the application of the Uninsured Motorist Property Damage (UMPD) deductibles. In the area of forms the company was advised to have available for use all of the mandatory standard automobile forms.

The CAP for policy insurance requested that the company specify accurate information in the policy by listing and attaching all applicable forms on the declarations page. The CAP also requested that restitution of \$20,366.86 be made to 77 Virginia consumers.

INTRODUCTION

Pursuant to the authority of § 38.2-1317 of the Code of Virginia, a comprehensive examination has been made of the private passenger auto line of business written by Safe Auto Insurance Company at its office in Columbus, Ohio.

The examination commenced June 10, 2019 and concluded March 16, 2020. Brandon L. Ayers, Andrea D. Baytop, Dan R. Koch, Ju'Coby D. Hendrick, Latitia L. Orange and Gloria V. Warriner, examiners of the Bureau of Insurance, and Joy M. Morton, Market Conduct Manager of the Bureau of Insurance, participated in the work of the examination. The examination was called in the Market Action Tracking System on April 10, 2019 and was assigned the examination number of VA-VA177-7. The examination was conducted in accordance with the procedures established by the National Association of Insurance Commissioners (NAIC).

COMPANY PROFILE

Safe Auto Insurance Company (SAIC) was incorporated under the laws of Ohio as a corporation in 1993 and maintains its principal place of business in Columbus, Ohio. SAIC was authorized to transact the business of insurance in Virginia in 2010 and commenced operating shortly thereafter. SAIC is owned by Safe Auto Insurance Group, Inc., an insurance holding company also based in Columbus, Ohio, and primarily owned by the Deshe and Diamond families.

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 as noted in the table.

GROUP CODE: 4940	SAIC
NAIC Company Number	25405
LICENSED IN VIRGINIA	11/30/2010
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 2019 for the lines of insurance included in this examination.* This business was developed through captive agents.

COMPANY AND LINE	PREMIUM VOLUME	MARKET SHARE
Safe Auto Insurance Company		
Private Passenger Auto Liability	\$4,840,152	.15%
Private Passenger Auto Physical Damage	\$1,732,949	.07%

* Source: The 2019 Annual Statement on file with the Bureau of Insurance and the Virginia Bureau of Insurance Statistical Report.

SCOPE OF THE EXAMINATION

The examination included a detailed review of the company's private passenger automobile line of business written in Virginia for the period beginning April 1, 2018 and ending March 31, 2019. This review included rating, underwriting, policy terminations, claims handling, forms, policy issuance*, statutory notices, agent licensing, complaint-handling, and information security practices. The purpose of this examination was to determine compliance with Virginia insurance statutes and regulations and to determine that the company's operations were consistent with public interest.

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 laws 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 in Virginia. The Other Law Violations portion of Part One notes violations of other related laws that apply to insurers.

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

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

STATISTICAL SUMMARY

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

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

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

Population
Sample Requested

Area	Safe Auto	TOTAL	FILES REVIEWED	FILES NOT FOUND	FILES WITH ERRORS	ERROR RATIO
Private Passenger Automobile						
New Business	<u>7753</u> 50	<u>7753</u> 50	50	0	34	68%
Renewal Business	<u>4291</u> 50	<u>4291</u> 50	50	0	21	42%
Co-Initiated Cancellations	<u>71</u> 21	<u>71</u> 21	21	0	16	76%
All Other Cancellations	<u>12316</u> 50	<u>12316</u> 50	50	0	14	28%
Nonrenewals	<u>9</u> 9	<u>9</u> 9	9	0	0	0%
Claims						
Auto	<u>1984</u> 100	<u>1984</u> 100	100	0	72	72%

PART ONE - THE EXAMINERS' OBSERVATIONS

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

RATING AND UNDERWRITING REVIEW

Automobile New Business Policies

The examiners reviewed 50 new business policy files. During this review, the examiners found overcharges totaling \$3,664 and undercharges totaling \$169. The net amount that should be refunded to insureds is \$3,664 plus six percent (6%) simple interest.

- (1) The examiners found 22 violations of § 38.2-305 A of the Code of Virginia. The company failed to specify accurate information in the policy.
 - a. In 20 instances, the company failed to state the total policy premium on the declarations page.
 - b. In two instances, the company listed forms on the declarations page that were not applicable to the policy.
- (2) The examiners found two violations of § 38.2-502 1 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of the insurance policy. The application indicated there was an excluded driver and the Accident Point Surcharge notice misrepresented the premium increase.
- (3) The examiners found 12 violations of § 38.2-1904 D of the Code of Virginia. The company surcharged the policy for a traffic violation without verifying the conviction date was within the permitted time period.

- (4) The examiners found 18 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau.
- a. In one instance, the company failed to apply accident and conviction surcharge points under its Safe Driver Insurance Plan (SDIP) correctly.
 - b. In one instance, the company failed to use the correct symbol.
 - c. In six instances, the company failed to use the correct tier eligibility criteria.
 - d. In one instance, the company failed to use the correct driver classification factor.
 - e. In three instances, the company failed to use the correct base and/or final rates.
 - f. In five instances, the company failed to follow its filed premium determination rule.
 - g. In one instance, the company failed to use proper credit score information when rating the policy.

Automobile Renewal Business Policies

The examiners reviewed 50 renewal business policy files. During this review, the examiners found overcharges totaling \$4,013 and undercharges totaling \$459. The net amount that should be refunded to insureds is \$4,013 plus six percent (6%) simple interest.

- (1) The examiners found seven violations of § 38.2-305 A of the Code of Virginia. The company failed to specify accurate information in the policy. The company failed to state the total policy premium on the declarations page.
- (2) The examiners found three violations of § 38.2-1904 D of the Code of Virginia. The company surcharged the policy for a traffic violation without verifying the

- conviction date was within the permitted time period.
- (3) The examiners found 20 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau.
- a. In one instance, the company failed to use the correct discount and/or surcharge.
 - b. In three instances, the company failed to apply accident and conviction surcharge points under its SDIP correctly.
 - c. In three instances, the company failed to use the correct symbol.
 - d. In one instance, the company failed to use the correct base and/or final rates.
 - e. In six instances, the company failed to follow its filed premium determination rule.
 - f. In six instances, the company failed to follow its driver assignment 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 60TH DAY OF COVERAGE

The examiners reviewed 20 automobile cancellations that were initiated by the company where the notice was mailed prior to the 60th day of coverage in the initial policy period. During this review, the examiners found overcharges totaling \$59.95 and undercharges totaling \$18.51. The net amount that should be refunded to insureds is \$59.95 plus six percent (6%) simple interest.

The examiners found 13 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the earned premium correctly.

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

NOTICE MAILED AFTER THE 59TH DAY OF COVERAGE

The examiners reviewed one automobile cancellation that was initiated by the company where the notice was mailed on or after the 60th day of coverage in the initial policy period or at any time during the term of a subsequent renewal policy. During this review, the examiners found no overcharges and no undercharges.

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 after the 59th day of coverage.

Other Law Violations

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

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

All Other Cancellations - Automobile PoliciesNONPAYMENT OF PREMIUM

The examiners reviewed 25 automobile cancellations that were initiated by the company for nonpayment of the policy premium. During this review, the examiners found overcharges totaling \$233.51 and undercharges totaling \$26.62. The net amount that should be refunded to insureds is \$233.51 plus six percent (6%) simple interest.

The examiners found eight violations of § 38.2-1906 D of the Code of Virginia.

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

REQUESTED BY THE INSURED

The examiners reviewed 25 automobile cancellations that were initiated by the insured where the cancellation was to be effective during the policy term. During this review, the examiners found overcharges totaling \$259.00 and undercharges totaling \$190.62. The net amount that should be refunded to insureds is \$259.00 plus six percent (6%) simple interest.

- (1) The examiners found five violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the earned premium correctly.
- (2) The examiners found one occurrence where the company failed to comply with the provisions of the policy. The company failed to honor the cancellation date requested by 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.

Company-Initiated Non-renewals - Automobile Policies

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

The examiners found no violations in this area.

CLAIMS REVIEW

Private Passenger Automobile Claims

The examiners reviewed 100 automobile claims for the period of April 1, 2018 through March 31, 2019. The findings below appear to be contrary to the standards set forth by Virginia insurance statutes and regulations. During this review, the examiners found no overpayments and underpayments totaling \$10,984.51. The net amount that should be paid to claimants is \$10,984.51 plus six percent (6%) simple interest.

- (1) The examiners found 13 violations of 14 VAC 5-400-30 C. 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 17 violations of 14 VAC 5-400-40 A. The company failed to disclose all pertinent benefits, coverages, or provisions of an insurance policy to the insured.
 - a. In two instances, the company failed to accurately inform an insured of the physical damage deductible when the file indicated that the coverage was applicable to the loss.
 - b. In one instance, the company failed to accurately inform an insured of the

Transportation Expenses coverage when the file indicated the coverage was applicable to the loss.

- c. In 14 instances, the company failed to accurately 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.

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

- (3) The examiners found four 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.
- (4) The examiners found one violation of 14 VAC 5-400-70 B. The company failed to provide a reasonable explanation of the basis for the denial in its written denial of the claim.
- (5) The examiners found 24 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 11 instances, the company failed to pay the insured's UMPD claim properly when Collision and UMPD coverages applied to the claim.
 - b. In ten instances, the company failed to pay the insured's rental benefits available under the UMPD and/or UIM coverage.
 - c. In one instance, the company failed to pay the proper sales and use tax, title fee, and/or license fee on a first party total loss settlement.

- d. In two instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Transportation Expenses coverage.

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

- (6) The examiners found four 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 three instances, the company failed to provide the estimate to the insured.

- b. In one instance, the company failed to provide the estimate to the claimant.

- (7) The examiners found one violation of 14 VAC 5-400-80 I. The company terminated the transportation expenses coverage prior to making payment for the repairs.

- (8) The examiners found two violations of § 38.2-236 A of the Code of Virginia. The company failed to notify the claimant of a settlement payment of \$5,000 or more sent to its attorney.

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

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

- (10) The examiners found two 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.
- (11) The examiners found one violation of § 38.2-510 A 5 of the Code of Virginia. The company failed to affirm or deny a claim within a reasonable timeframe after proof of loss statements were completed.
- (12) The examiners found one violation of § 38.2-510 A 6 of the Code of Virginia. The company failed to attempt, in good faith, to make a prompt, fair, and equitable settlement of a claim in which liability was reasonably clear. The company failed to pay the claimant's collision damage waiver (CDW).
- (13) The examiners found 65 violations of § 38.2-510 A 10 of the Code of Virginia. The company made a claim payment to the insured or the insured's beneficiary that was not accompanied by a statement setting forth the correct coverage(s) under which payment was made.

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

- (14) The examiners found one violation of § 38.2-510 A 14 of the Code of Virginia. The company failed to provide a reasonable explanation of the basis for a denial of a claim or a compromised settlement for a claimant.
- (15) The examiners found four violations of § 38.2-510 C of the Code of Virginia. The company failed to include the aftermarket parts notice on the estimates.
- (16) The examiners found two violations of § 38.2-2201 D of the Code of Virginia. The company paid the provider without first obtaining a valid assignment of benefits (AOB).
- (17) The examiners found five violations of § 38.2-2206 A of the Code of Virginia. The company failed to properly apply the Uninsured Motorist (UM) deductible.
- (18) The examiners found four occurrences where the company failed to comply with

the provisions of the insurance policy.

- a. In three instances, the company failed to pay a UM claim properly.
- b. In one instance, the company failed to pay the claim under the correct coverage.

FORMS REVIEW

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 Policy Issuance Process Review 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 14 forms that were used during the examination period to provide coverage on policies insuring risks located in Virginia.

The examiners found one violation of § 38.2-2220 of the Code of Virginia. The company failed to have available for use the standard automobile form for Additional Insured - Lessor.

POLICY FORMS CURRENTLY USED

The examiners found no violations in this area.

POLICY ISSUANCE PROCESS REVIEW

To obtain sample policies to review the company's policy issuance process for the line examined, the examiners requested new and renewal business policy mailings that were sent after the company received the Examination Data Call. The company was instructed to provide duplicates of the entire policy 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 listed and enclosed all of the applicable policy forms. 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.

Automobile Policies

The company provided five new business policies sent to the insureds on April 2 and 6, 2019. In addition, the company provided five renewal business policies sent to the insureds on March 8, 15, and 16, 2019.

NEW BUSINESS POLICIES

The examiners found seven violations of § 38.2-305 A of the Code of Virginia. The company failed to specify accurate information in the insurance policy as required by this statute.

- a. In five instances, the company failed to attach all of the applicable forms shown on the declarations page.
- b. In two instances, the company listed forms on the declarations page that were not applicable to the policy.

RENEWAL BUSINESS POLICIES

The examiners found no violations in this area.

STATUTORY NOTICES REVIEW

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

To obtain copies of the statutory notices used during the examination period for the 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 Policy Issuance Process section of the Report.

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

General Statutory Notices

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

Statutory Vehicle Notices

The examiners found no violations in this area.

Other Notices

The examiners found no violations in this area.

LICENSING AND APPOINTMENT REVIEW

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

Agency

The examiners found no violations in this area.

Agent

The examiners found no violations in this area.

COMPLAINT-HANDLING PROCESS REVIEW

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

The examiners found one violation of § 38.2-511 of the Code of Virginia. The company failed to maintain a complete record of its written complaints as required by the statute.

PRIVACY AND INFORMATION SECURITY PROCEDURES REVIEW

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

The company provided its written Information Security Procedures.

PART TWO – CORRECTIVE ACTION PLAN

Business practices and the error tolerance guidelines are determined in accordance with the guidelines included in the NAIC Market Regulation Handbook. A seven percent (7%) error criterion was applied to violations of the unfair claims handling statutes and regulations. Any error ratio above this threshold for claims 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

Safe Auto Insurance Company shall:

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

Rating and Underwriting Review

Safe Auto Insurance Company shall:

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

- the total policy premium on the declarations page.
- (5) Remove all references to excluded drivers from Virginia policies.
 - (6) Use the rules and rates on file with the Bureau. Particular attention should be given to the use of accident and conviction surcharges, symbols, tier eligibility, base and/or final rates, premium determination rules and driver assignment rules.

Termination Review

Safe Auto Insurance Company shall:

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

Claims Review

Safe Auto Insurance Company shall:

- (1) Correct the errors that caused the underpayments 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 attached file titled "Claim Underpayments Cited during the Examination." By returning the completed file to the Bureau, the company acknowledges that it has paid the underpayments listed in the file.
- (4) Document the claim file so that all events and dates pertinent to the claim can be reconstructed.
- (5) Document the claim file that all applicable coverages have been disclosed to the insured. Particular attention should be given to physical damage deductibles, Transportation Expenses coverage, and rental benefits under UMPD.
- (6) Offer the insured an amount that is fair and reasonable as shown by the investigation of the claim and pay the claim in accordance with the insured's policy provisions.
- (7) Properly represent pertinent facts or insurance provisions relating to coverages at issue.
- (8) Include a correct statement of coverage under which payments are made with all claim payments made to insureds.
- (9) Make medical payments directly to the insured unless a valid assignment of benefits has been obtained.
- (10) Based on the Bureau's examination of the company's UMPD claims, the company should conduct an internal audit of the UMPD claims where the

deductible was applied incorrectly. The company should complete the Bureau prepared spreadsheet indicating the payments made as a result of the internal audit.

Forms Review

Safe Auto Insurance Company shall:

Have available for use all mandatory standard automobile forms as adopted by the Bureau.

Policy Issuance Process Review

Safe Auto Insurance Company shall:

Specify accurate information in the policy by listing and attaching all applicable forms on the declarations page.

Statutory Notices Review

Safe Auto Insurance Company shall:

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

Complaint-Handling Process Review

Safe Auto Insurance Company shall:

Maintain a complete compliant Complaint Register.

PART THREE – RECOMMENDATIONS

The examiners also found violations that did not appear to rise to the level of business practices by the company. The company should carefully scrutinize these errors and correct the causes before these errors become business practices.

RECOMMENDATIONS

We recommend that the company take the following actions:

Rating and Underwriting

- Contact the Bureau's Rates, Rules and Forms section to update the rules and rates on file to reflect the company's current practices. Particular attention should be given to LTV Tier criteria, neutral credit score, driver assignment and Accidental Death Benefits premium.
- Correct the application to state the proper quoted coverage premiums.

Termination

- Obtain valid proof of mailing the cancellation notice to the insured.
- File an SR-26 with DMV within 15 days of cancellation of a motor vehicle policy and maintain proper documentation.

Claims

- Make all claim denials in writing and keep a copy in the claim file.
- Provide copies of repair estimates, prepared by or on behalf of the company, to insureds and claimants.
- Notify the claimant anytime a payment of \$5,000 or more is sent to the attorney.
- Adopt and implement reasonable standards for the prompt investigation of claims.
- Include the aftermarket parts wording on the company prepared estimates.
- Make payments under the correct coverage(s) properly when both

Collision and UM coverages pertain to the claim.

Statutory Notices

- Correct the 60-day Cancellation Warning notice to be in all capital letters.
- Remove the TDD phone number from the Important Information to Policyholders Notice.

SUMMARY OF PREVIOUS EXAMINATION FINDINGS

The Bureau conducted one prior market conduct examination of Safe Auto Insurance Company. During the prior examination as of March 31, 2014, the company violated: §§ 38.2-228, 38.2-305 A, 38.2-310, 38.2-502, 38.2-510 A 1, 38.2-510 A 6, 38.2-510 A 10, 38.2-511, 38.2-1833, 38.2-1905 C, 38.2-1906 D, 38.2-2202 A, 38.2-2202 B, 38.2-2208 A, 38.2-2208 B, 38.2-2212 D, 38.2-2212 E, 38.2-2234 A 1 and 38.2-2234 A 2 of the Code of Virginia; as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-50 C, 14 VAC 5-400-70 A, 14 VAC 5-400-70 D, 14 VAC 5-400-80 D of the Virginia Administrative Code.

ACKNOWLEDGEMENT

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

Sincerely,

A handwritten signature in black ink, appearing to read "Ju'Coby D. Hendrick". The signature is written in a cursive style with a large initial "J".

Ju'Coby D. Hendrick
Insurance Market Examiner

COMMONWEALTH OF VIRGINIA



SCOTT A. WHITE
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

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TELEPHONE: (804) 371-9741
www.scc.virginia.gov/boi

April 14, 2020

VIA E-MAIL DELIVERY

Kelly A. Armstrong
Safe Auto Insurance Company
4 Easton Oval
Columbus, OH 43219

RE: Market Conduct Examination
Safe Auto Insurance Company (NAIC #25405)
Examination Period: April 1, 2018 – March 31, 2019

Dear Ms. Armstrong:

The Bureau of Insurance (Bureau) has conducted a market conduct examination of Safe Auto Insurance Company for the period of April 1, 2018 through March 31, 2019. The preliminary examination report (Report) has been drafted for the company's review.

Attached with this letter is a copy of the Report and copies of review sheets that have been added, withdrawn, or revised since March 16, 2020. Also attached are several technical reports that will provide you with the specific file references for the violations listed in the Report.

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

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

Thirdly, if the company has comments they wish 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 they are taking to prevent those issues from becoming a business practice.

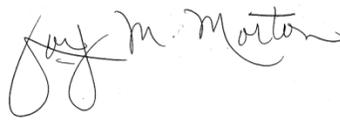
Finally, we have attached an Excel file that the company must complete and return to the Bureau with their response. This file lists the review items for which the examiners identified overcharges (rating and terminations) and underpayments (claims).

The company's response and the spreadsheet mentioned above must be returned to the Bureau by May 18, 2020.

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

We look forward to your reply by May 18, 2020.

Sincerely,

A handwritten signature in cursive script that reads "Joy M. Morton".

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

JMM/pgh
Attachments



4 Easton Oval
Columbus, OH 43219
1-800-SAFEAUTO
(1-800-723-3288)

May 27, 2020 (revised submittal per 5/27/20 email request of Joy Morton)

Sent via E-Mail

Bureau of Insurance
Market Conduct Section
Property & Casualty Section
Attn: Joy Morton
Joy.morton@ssc.virginia.gov

**Re: Market Conduct Examination (VA-VA177-7) of Safe Auto Insurance Company
Examination Period: April 1, 2018 – March 31, 2019**

Ms. Morton:

Pursuant to 38.2-1317 of the Code of Virginia, Safe Auto Insurance Company (“Safe Auto”) submits the following comments in response to the Preliminary Report (the “Report”) submitted by the Virginia Bureau of Insurance (“Bureau”) on April 13, 2020.

The following commentary includes specific reference to the impacted sections of the Report. All comments included herein should be deemed to include Safe Auto’s initial responses as well as any references to such alleged violations set forth elsewhere in the report. This includes, but is not limited to, the information provided within the Report under PART ONE – THE EXAMINER’S OBSERVATIONS, PART TWO – CORRECTIVE ACTION PLAN, and PART THREE - RECOMMENDATIONS.

Finally, Safe Auto has provided the Bureau with extensive documentation in support of our responses to various observations generated throughout the course of this exam. Safe Auto expressly relies upon all such documentation in support of the comments and objections asserted within and incorporates such documentation by reference herein.

Regards,

Kelly A. Armstrong
General Counsel

SAFE AUTO'S RESPONSE TO PART ONE – THE EXAMINERS OBSERVATIONS

RATING AND UNDERWRITING REVIEW

Automobile New Business Policies

(3)a – The company continues to respectfully disagree with the observations related to Virginia Code §38.2-1906 D and its use of self-reported violations. §38.2-1906 is very clear with its sole directive for insurers to “make or issue insurance” contracts “in accordance with the rate” filings that are in effect for such insurer. Furthermore, nowhere within §38.2-1906 D is there a requirement to utilize only convictions when applying points to a policy. The company explicitly provides in its Rating Rule RR-8 3, which was initially pointed out in prior responses and has been provided to the Bureau during the initial data submittal process and approved in prior rate filings, that “Safe Auto uses a combination of self-reported information, motor vehicle reports, company claims data and C.L.U.E. reports” in rating insureds for coverage. The combination of using self-reported as well as reports is appropriate to understand the full measure of risk a new applicant poses, since there are multiple reasons why a violation might not appear on the MVR obtained and used at the time of application. The company believes its response is sufficient to see this observation withdrawn.

(3)b – The Examiner requested that the company provide documentation from ISO that shows the appropriate symbol for the Jaguar when the policy was issued. Upon reaching out to ISO/Polk, we were notified that the only documentation they could or would provide was that they had timely delivered any necessary updates to the company, but could not verify which symbol the company used nor when we began to use them. Therefore, what follows is an in-depth description of the process by which the company verified that the correct symbols were assigned to the vehicle for the policy associated with RPA002:

Every week, the company receives a complete and updated database from Polk which contains +/- 250 data points for every possible VINStub. A “VINStub” is the first portion of a VIN that carries make, model, trim. The remainder of the VIN is a serial number.

Upon receipt, the company systematically queries all the data from the Polk database and stores it in our own SQL Server database. The company adds a timestamp to each data element as we store it. The timestamp allows the company to know what VIN data were being used at any given date, back to the earliest Polk data we have on file. The company have this data back to 11/2/2015. This is a common database technique used to allow for historical looks at data.

Normally, we use the latest “version” of a given VINStub when rating. The exceptions are to generate historical documents, for internal “look back”, for a Market Conduct Exam, or to reprint older customer documents on request.

The data in the spreadsheet labeled R&UNBPPA-346138675_ ATTACHMENT_ Symbol History for Selected Vehicles – SAIC 2019 MCE and provided with our initial response was gathered by one of the company’s IT Software Developers with extensive knowledge of our systems and the SQL Server database, using a query which selected VIN data as of a certain date. The company’s attachment utilized VINStub “SAJAR4BN*H”.

To get our history on this VIN, the system runs a query like this: “select * from vindata.vin where VINStub = ‘SAJAR4BN*H’ order by LookupDate”, which retrieves the specific lookup dates for the VinIDs.

Next, the system will choose the “version” from the populated list of VinIDs. The strategy is to select the newest version that is on or before the “rate date”. Again, normally the “rate date” is the current date, unless we are researching something, such as what occurred in order to respond to this observation R&UNBPPA-346138675, as we focused on the applicable version on the rate date of 4/14/2018.

In this case, the system generated symbols with a Vendor EffDate of 4/12/2018, which is the latest version that comes on or before our target date of 4/14/2018. As you can see from the ATTACHMENT, the rating symbol for Collision was MW for the rate date and what was assigned to the vehicle for the policy associated with RPA002. Below we have provided a table with the dates where at least one of the RAPA rating symbols changed:

VinID	lookupdate	VinStub	COMP	PD	PIP	COLL	BI	MED
1600016	5/23/2018	SAJAR4BN*H	MY	LL	LL	MW	GH	JU
1970559	3/21/2019	SAJAR4BN*H	MY	LL	LL	M0	GH	JU
2330646	2/26/2020	SAJAR4BN*H	MY	LL	LL	M1	GH	JU
2348410	3/4/2020	SAJAR4BN*H	MY	LL	LL	M1	GH	JU

The Examiner returned a symbol of M1. The company is unsure how that was received, as shown on the above chart, M1 did not become the appropriate symbol for this vehicle until 2/26/2020 (it would have shown as M0 before that date). The company is aware that current data has different (more complete) rating symbols than the data at the time the policy associated with RPA002 was rated as it is common for the actual values to change over time. The company rated this policy according to its approved rating rules and therefore does not retroactively go back and revise such after the issuance of new symbols from Polk.

(3)g – The company received this response the same day as the 60-day notice. We have included our response (PART ONE_Rating and Underwriting Review_New Business_R&UNBPPA-1177643357_BOI Response signed) and an attachment (PART ONE_Rating and Underwriting Review_New Business_R&UNBPPA-1177643357_ATTACHMENT_Rate Map (RPA022)_NBT removed)hereto and expect the observation to be withdrawn accordingly.

Automobile Renewal Business Policies

(2)b - The company continues to respectfully disagree with the observations related to Virginia Code §38.2-1906 D and its use of self-reported violations. §38.2-1906 is very clear in its sole directive for insurers to “make or issue insurance” contracts “in accordance with the rate” filings that are in effect for such insurer. Furthermore, nowhere within §38.2-1906 D is there a requirement to utilize only convictions when applying points to a policy. The company explicitly provides in its Rating Rule RR-8 3, which was initially pointed out in prior responses and has been provided to the Bureau during the initial data submittal process and approved in prior rate filings, that “Safe Auto uses a combination of self-reported information, motor vehicle reports, company claims data and C.L.U.E. reports” in rating insureds for coverage. The combination of using self-reported as well as reports is appropriate to understand the full measure of risk a new applicant poses, since there are multiple reasons why a violation might not appear on the MVR obtained and used at the time of application. The company believes its response is sufficient to see this observation withdrawn.

2(c) – The Examiner requested that the company provide documentation from ISO that shows the appropriate symbol for the vehicles contained within the observations pertaining to R&URBPPA 974238053, 566827117, and 1738813323 when the policy was issued. Upon reaching out to ISO/Polk, we were notified that the only documentation they could or would provide was that they had timely delivered to the company any necessary updates to the RAPA symbols, but could not verify which symbol the company used nor when we began to use them. Therefore, what follows is an in-depth description of the process by which we verified that the correct symbols were assigned to the vehicle on the policies associated with RPA068, RPA072, and RPA076:

Every week, the company receive a complete and updated database from Polk which contains +/- 250 data points for every possible VINStub. A “VINStub” is the first portion of a VIN that carries make, model, trim. The remainder of the VIN is a serial number.

Upon receipt, the company systematically queries all the data from the Polk database and store it in our own SQL Server database. The company adds a timestamp to each data element as we store it. The timestamp allows us to know what VIN data were being used at any given date, back to the earliest Polk data the company has on file. The company have this data back to 11/2/2015. This is a common database technique used to allow for historical looks at data.

Normally, we use the latest “version” of a given VINStub when rating. The exceptions are to generate historical documents, for internal “look back”, for a Market Conduct Exam, or to reprint older customer documents on request.

The data in the spreadsheets labeled ATTACHMENT_Symbol History for Selected Vehicles – SAIC 2019 MCE for R&UNBPPA-974238053, 566827117, and 1738813323 which were provided with our initial response was gathered by one of the company’s IT Software Developers with extensive knowledge of our systems and the SQL Server database, using a query which selected VIN data as of a certain date. The company’s attachments utilized VINStubs “5NPE34AF*F”, “3KPC24A3*J”, and “2C3CCAEG*G” as provided in the table below.

To get our history on this VIN, the system runs a query like this: “select * from vindata.vin where VINStub = ‘RELEVANT VINStub INSERTED’ order by LookupDate”, which retrieves the specific lookup dates for the VinIDs.

Next, the system will choose the “version” from the populated list of VinIDs. The strategy is to select the newest version that is on or before the “rate date”. Again, normally the “rate date” is the current date, unless we are researching something, such as what occurred in order to respond to these observations, as we focused on the version applicable as shown under “Our Rate Date” for each policy on the table below: 4/17/2018, 7/17/2018, and 5/6/2018.

In this case, the system generated symbols with a Vendor EffDate(s) of 1/18/17, 10/11/17, and 4/11/18 which is the latest version that comes on or before the Rate Date. As you can see from the ATTACHMENT documents for each policy and the table below, the rating symbols for each observation are as follows:

RPA072 (R&URBPPA-566827117) – the BI symbol (BI_RATING_SYM) was JJ and the PD symbol (PD_RATING_SYM) was KN for the Hyundai Sonata
RPA068 (R&URBPPA-974238053) – the symbol for all coverages was NULL and thus generated a NOSYMBOL classification for the Hyundai Accent

RPA076 (R&URBPPA-1738813323) – the BI symbol (BI_RATING_SYM) was GK and the PD symbol (PD_RATING_SYM) was NL, and Collision (COLL_RATING_SYM) was MT for the Chrysler 300C.

The company restates the basis for its response from New Business Policies 3(b) above and the attachments and responses provided to the R&URBPPA observations contained within 974238053, 566827117, and 1738813323 as originally provided, with the table below isolating the specific dates when certain symbols were active (Note: Bureau’s observations were all generated on 1/9/20):

BOI Ref #	Vin Stub	Our Rate Date	Vendor EffDate	BI_RATING_SYM	PD_RATING_SYM	COMP_RATING_SYM	COLL_RATING_SYM	Comment	
RP A07 2	5NPE 34AF* F	4/17/2018	4/25/18	LJ	MN	HU	HU	← Examiner expected these	
			1/18/17	JJ	KN	HU	HU	← Company used these	
			11/3/15	JJ	KN	HT	HT		
RP A06 8	3KPC 24A3* J	7/17/2018	5/30/19	RG	PL	CU	CV	← Examiner expected these	
			3/21/19	RG	PJ	CU	CV		
			11/8/18	RG	PJ	CT	CV		
			10/10/18	NULL	NULL	CT	CV		
			10/11/17	NULL	NULL	NULL	NULL	← Company used these	
RP A07 6	2C3C CAEG *G	11/6/2017	5/29/19	JL	RL	MX	MW	← Examiner expected these	
			3/21/19	JK	RL	MX	MW		
			5/9/18	JK	RL	MW	MR		
									← We would have used these if not for the original rate date on this renewal policy
			4/11/18	GK	NL	MW	MR		
			1/18/17	GL	NL	MX	MT	← Company these for original rate date of 11/6/2017	
			12/9/16	GL	NL	MY	MX		
			2/26/16	GK	NL	MX	MT		
			11/24/15	NULL	NULL	NULL	NULL		

(2)e – The company received R&URBPPA-1583772504 prior to the 60-day notice. The company agrees with this observation and has provided our response as an attachment hereto as “PART ONE_Rating and Underwriting Review_Renewal Business_R&URBPPA-1583772504_Signed”.

(2)f - The company received R&URBPPA-1046260103 prior to the 60-day notice. The company disagrees with the observation and has included our response as an attachment hereto as "PART ONE_Rating and Underwriting Review_Renewal Business_R&URBPPA-1046260103_Signed". The company believes its response is sufficient to see this observation withdrawn.

There is no place for Premium Overcharge on the Preliminary Report, but the company wishes to provide a response to R&URBPPA-895030970 attached hereto as PART ONE_Rating and Underwriting Review_Renewal Business_R&URBPPA-895030970_Signed.

TERMINATION REVIEW

Company-Initiated Cancellations - Automobile Policies

Other Law Violations

While the company does not agree that it failed to file any SR-26/FR-46 with the VA DMV as required by Virginia Code §48.2-482, due to the limitations of the SR26 process in Virginia, the company agrees that it was unable to produce evidence in response to the observations under 48.2-486. As more fully detailed below in its response to Part Three – Terminations, the company has instituted a revised process to maintain records going forward.

All Other Cancellations - Automobile Policies

Nonpayment of Premium

(2) The Company disagrees with the Bureau's observations related to the cited violations of Virginia Code §38.2-2208 A. The Company is aware of the modification of the VA Code, specifically to §38.2-2208 required by 2016 House Bill 31 (HB 31), which "restored the insurer's ability to use a certificate of mailing from the USPS to demonstrate that a notice was mailed to the insured or lienholder, often referred to as "proof of mailing" (Virginia Bureau of Insurance Administrative Letter 2016-08)." The Bureau's Memorandum dated March 3, 2016 (the "Memo") provides that House Bill 31 "clarifies that Intelligent Mail barcode tracing (IMb Tracing™) is a permitted first-class mail tracking method", but does not attempt nor suggest that it is the only one permitted, and additionally "identifies a requirement for insurers to maintain records regarding the sending of such notices for one year, regardless of the method used to send notices." Furthermore, the Memo goes on to outline the following procedures which will be implemented by the Bureau to verify compliance with the newly created option for insurers to utilize but does not remove the ability of an insurer to utilize other methods which are permitted by statute.

Additional support for the Company's position is found in the express terms of §38.2-2208 A(1), which allows an insurer to obtain proof of mailing a notice of cancellation or refusal to renew "by using one of the following methods that demonstrates the date the notice was sent to the named insured at the address stated in the policy": a.(1) Registered mail; (2) Certified mail; or (3) Any other similar first-class mail tracking method used or approved by the United States Postal Service, including Intelligent Mail barcode Tracing (IMb Tracing)". The combination of documents provided by the Company are unquestionably a first-class mail tracking method used or approved by the USPS. Further, as mentioned above, per §38.2-2208 A.1, the stated purpose of requiring an insurer to obtain valid proof of mail is to demonstrate "the date that the notice was sent to the named insured at the address stated in the policy or to the named insured's last known address".

The company believes the electronic proof of mailing (“EPOM”) method it uses meets the stated purpose provided by the Virginia legislature.

By the very language of the statute, IMb Tracing is an option which may be utilized by insurers when obtaining proof of mailing a notice of cancellation. Throughout its multiple responses to the Bureau, the Company has steadfastly maintained that it utilizes a first-class mail tracking method used or approved by the United States Postal Service. While the Company’s method is similar to the IMb Tracing method, it is different, though wholly in line with the requirements of §38.2-2208, specifically permitted as an option under §38.2-2208(A)(1)(a)(3), and also meets the spirit and intent of the statute. While there are multiple steps which the Bureau utilizes when verifying an IMb barcode, the statute doesn’t require these steps to be demonstrated for any of the other methods aside from IMb Tracing. Nevertheless, the EPOM method employed by the Company meets each of these steps and is in line with the other approved methods under §38.2-2208 A(1)(a).

To outline the similarities between the Company’s EPOM and IMb Tracing methods, and in order to provide evidentiary support of the specific items the Bureau requested during the May 11th phone conference between representatives of the parties, even though such is not required of any method which is acceptable under §38.2-2208 A(1)(a) other than as laid out in the Memo for IMb Tracing, namely (1) a facility code and (2) routing #, the Company’s EPOM method contains documentation which provides countless pieces of information and allows the notice to be traced by several different variables. Relevant to this response focusing on routing # and facility code are:

(1) the Proof of Mailing - Live report provides the date the notice was sent, the serial number listed on the side of the notice, and the Job ID which links to the serial number in the mail.dat file and correlates to the Job ID listed on the United States Postal Service Postage Statement, providing similar information to the routing # required under IMb Tracing, although to reiterate, the Company does not attempt to use a strict IMb Tracing method and thus its EPOM method should not be judged as a like for like comparison to IMb Tracing, but rather compared to the stated intention of §38.2-2208 A; and

(2) the USPS Postage Statement includes the Post Office of Mailing within the “Mailing” row. In this case, and for every non-pay cancellation sent by the Company, the location is COLUMBUS OH 43218-9998. This location corresponds with the post office located at 2323 Citygate Drive, Columbus OH 43218.

The Company has provided a copy of the Proof of Mailing - Live report, mail.dat file, and the USPS Postage Statement in support of this response to assist with the Bureau’s review of our position regarding Safe Auto Insurance Company’s EPOM notice of cancellation method (“PART ONE_Termination Review_Nonpayment Cancellations_TermNPPPA-965455034_ATTACHMENT_USPS Postage Statement_PCOL11745 (TPA026)”, “PART ONE_Termination Review_Nonpayment Cancellations_TermNPPPA-965455034_ATTACHMENT_mail.dat (TPA026)”, and “PART ONE_Termination Review_Nonpayment Cancellations_TermNPPPA-965455034_ATTACHMENT_EPOM

(TPA026)". We believe our position is sound and welcome the Bureau's review and subsequent withdrawal of the observations cited under §38.2-2208 A.

(3) The company disagrees with the observation in TermNP-979671348. The company has provided multiple responses and attachments in support of its position to this observation and reiterates and resubmits each as originally provided to the Examiners, including the NOC NSF dated 06/22/18, the Invalid Account Memo dated 06/26/18, and the Policy Notes for the policy associated with TPA025.

As outlined in the Policy Notes for the policy associated with TPA025, provided during the supplemental data request and then again in response to this observation, the insureds automatic payment failed due to their bank reporting that the card had been declined on 6/21/19. The company reached out to the insured on the same day notifying the insured of the declined card and that a manual payment must be made to avoid a non-pay cancellation, as well as requesting the insured to update their automatic payment information in order for those to continue. A notice of cancellation (NOC) was sent to the policyholder on 6/22/18 reflecting an effective cancellation date of 7/9/18. The Policy Notes indicate that the insured attempted payment on 6/22/18 after which the company received notice on 6/26/18 that such attempted payment was returned NSF (insufficient funds/invalid account information). That same day, 6/26/18, the company sent the NSF Invalid Account Memo to the insured, notifying her of the fact that her attempted payment on 6/22/18 had been unsuccessful due to an invalid account or routing number. The company insists that the original NOC was valid per the requirements of 38.2-2212 and still effective to cancel the policy on 7/9 as nothing changed from 6/22/18 that would have required an extension of the cancellation date or further action on the company's part. The company then issued a confirmation of cancellation on 7/9/18 with an effective date the same, which did not act nor serve as a NOC but confirmation of the original 6/22/18 NOC. There is no statutory requirement that additional time be provided to an insured where insufficient payment methods are attempted. Should this be the case, an insured could feasibly extend the life of the policy indefinitely without actually making a valid payment to the company. Additionally, the company took appropriate measures to notify the insured of the failed payments, as the documentation shows the company reached out on both occasions of failed payment to notify the insured of her insufficient payment attempts. Consequently, there is no failure to abide by 38.22212 E02 and such observation should be withdrawn.

Requested by the Insured

(1) We have provided the requested documentation and a response to TermIRPPA-366182681 with the requested Oklahoma Declarations Page as attachments hereto ("PART ONE_Termination Review_All Other Cancellations_Requested by the Insured_TermIRPPA-366182681_ATTACHMENT_Dec (OK Policy)" and "PART ONE_Termination Review_All Other Cancellations_Requested by the Insured_TermIRPPA-366182681 BOI Response 2 Signed". The company believes the information provided should see this observation withdrawn.

CLAIMS REVIEW

Private Passenger Automobile Claims

(2)C – These 14 instances are being addressed through our actions and continued reporting through Regulatory Action #901.

(16) The company continues to respectfully disagree with the proposed remedy, as the Bureau's request to remedy this observation due to a technical violation of 38.2-2201 D-1 leads to unjustly enriching the insured where they suffered no actual damage. The company received a verbal

assignment of benefits (AOB) to pay the medical provider and carried out the intent of the insured by paying the total amount of the invoice (\$1955) without also receiving a written AOB. The company agrees that the finding is accurate. However, the fact that the company did not receive a written AOB does not remove the fact that the insured's wishes were addressed and did not suffer any adverse result. As it is agreed that a violation of the statute occurred, the company requests that the penalty is not invalidation of payment, but notice of a technical violation with no additional remuneration required, as providing an unwarranted monetary outlay is surely not the intent of the statute or a reasonable remedy in this situation. Consequently, the company believes this observation should be revisited to withdraw or further revise the remedy.

STATUTORY NOTICES REVIEW

Statutory Vehicle Notices

We disagree with this observation as provided in our response (PART ONE_Statutory Notices Review_NoticesSVN-1559673133_BOI_Signed_Response_051320) and attachments (PART ONE_Statutory Notices Review_ATTACHMENT_POLIS-VA-0916 Multi Reason Policy Issue Memo and PART ONE_Statutory Notices Review_ATTACHMENT_RENMM-VA-0111 Renewal Memo) in response to this observation, and consequently request the Bureau to review the company's response and withdraw accordingly.

PART TWO – SAFE AUTO'S CORRECTIVE ACTION PLAN (CAP)

General

In the body of our responses above, we have raised significant substantive disagreements with some of the findings submitted in the draft report. We look forward to resolving those issues in the course of further discussions, thereby achieving a final scope for the report.

We have additionally noted those areas where we agree with the Department's findings and have indicated the corrective actions that have been or will be undertaken for those items below.

Pending resolution of the disputed areas, and without admitting that any violations have, in fact, occurred, other than to the extent already conceded in the foregoing discussion or during the course of the examination, we believe that the areas outlined in Section Two of the report are appropriate statements of general principles, which are already accounted for within our existing systems, policies and procedures. Any violations found to have occurred represented divergence from those policies, principles and procedures, and Safe Auto will take all necessary steps to improve training, resolve technical errors and barriers, and insure that any areas of perceived violations are remedied as more fully provided below.

Once we reach agreement upon the final content of the report, we assume that any related implementation documentation will provide an appropriate period of time for us to perform any additional necessary remedial measures, and will implement all appropriate measures and provide the Bureau with timely reporting with respect to their completion.

Additionally, we are currently evaluating feasibility, requirements, and duration for those elements of the CAP requiring information technology modifications, modification to our underwriting guidelines, and/or revised rating rules. These efforts span each of the review sections included in the CAP. At this time, based on the observations that have been agreed upon or those that the

company has decided not to offer a further response and thus concede due to being unable to arrive at an acceptable resolution with the Bureau, these items include:

- modification of the company's application of license status factor, inexperienced operator surcharge, license factor status for invalid license, driver/vehicle assignment, and calculation of refund calculation for rescinded and nonrenewals

Rating and Underwriting Review

(1) The company is in the process of correcting the issues which resulted in overcharges and undercharges and establishing a process to refund or credit the appropriate amount of overcharge to the insureds.

(2) The company will include 6% simple interest for each overcharge refunded or credited to the insured's account for all items in (1) above, as requested.

(3) Upon final determination of the open observations within the Examiner's Rating and Underwriting Review, the company will complete and submit the Rating Restitution Spreadsheet within the document titled "Safe Auto Restitution 1".

(4) The company has undertaken the creation of a project to ensure that the total policy premium, including applicable fees, and all applicable forms are listed on the declarations page

(5) The company will remove all references to "excluded drivers" from Virginia policy documents.

(6) The company will review the application of its rules and rates on file with the Bureau, specifically to the items the Examiners observed relating to tier eligibility, base and/or final rates, and premium determination rules.

At this point the company contends there are still open questions involving symbols, accident and conviction surcharges as well as driver assignment rules. Until a final determination is reached, we continue to assert that we appropriately use the rules and rates on file for those items.

Termination Review

(1) The company is in the process of correcting the issues which created the overcharges and undercharges and will refund or credit the appropriate amount of overcharge to the insureds. Additionally, the company will file a rule to provide for a daily rate calculation based on the number of days in each month.

(2) The company will include the 6% simple interest for each overcharge refunded or credited to the insured's account for all items in (1) above.

(3) Upon final determination of all unresolved and open observations within the Examiner's Termination Review, the company will complete and submit the Terminations Restitution Spreadsheet within the document titled "Safe Auto Restitution 1".

(4) The company reviewed the process for handling premium refunds and will ensure that all future policies which cancel due to the death of the named insured are calculated according to its filed rules and policy provisions.

As provided above, the company provided the requested documentation and a response to TermIRPPA-366182681, concerning the rewrite of a policy to Oklahoma. The company believes the underlying observation should be withdrawn as the company properly calculated return premium for this policy.

(5) While the company continues to dispute the observation cited in TermNP-979671348 and believes such policy was cancelled as permitted by 38.2-2212 E as more fully provided above, the company agrees that it shall ensure we only cancel policies for reasons permitted by 38.2-2212 of the Code of Virginia.

(6) As provided above, the company provided additional documentation in support of our position on the issue of electronic proof of mailing (EPOM) to the Bureau for further review and handling within the Bureau and fully expects each of these observations to be withdrawn and removed as a general business practice, necessitating removal of this item from the CAP.

Claims Review

(1) (2) and (3) Pursuant to the information and documentation provided by our subsequent responses to the Claims Review CAP, the company corrected the issues resulting in underpayments and completed the process of sending the appropriate underpayments to insureds and claimants for all observations that the Company has agreed upon, including the 6% simple interest, as is evidenced by the submittal of the Claims Restitution Spreadsheet within the document titled "PART TWO_Claims Review_Safe Auto Restitution 1".

(4) The company created a Virginia compliance course which will be a permanent part of claims representative New Hire Orientation training. This course covers the subject of proper claim file documentation. The company will require all adjusters handling Virginia claims to take this Virginia compliance course by 5-30-20 and will validate and track completion of the module for each adjuster. A PDF of this course is attached titled "PART TWO_Claims Review 4,5,6,7,9_ATTACHMENT_VA claims handling compliance course".

(5) The company created a Virginia compliance course which will be a permanent part of our New Hire Orientation training. All adjusters handling Virginia claims will be required to take this Virginia compliance course by 5-30-20. This course covers proper handling and disclosure of coverages to the insured, physical damage deductibles, and transportation expense coverage. In addition, the company created a Virginia UMPD training course and all adjusters handling Virginia UMPD claims will be required to complete the same. The company will track completion of all Virginia compliance courses for each adjuster. PDF's of these courses are attached as "PART TWO_Claims Review_5_ATTACHMENT_VA UMPD claims handling course" and "PART TWO_Claims Review 4,5,6,7,9_ATTACHMENT_VA claims handling compliance course".

(6) The company created a Virginia compliance course which will be a part of our New Hire Orientation Training going forward. This course covers the subject of offering the insured an amount that is fair and reasonable as shown by the investigation and instruct them to pay the claim in accordance with the insured's policy provisions. All adjusters handling Virginia claims will be required to take this Virginia compliance course by 5-30-20. The company will track progress and completion of the training module for each adjuster. A PDF of this course is attached as "PART TWO_Claims Review 4,5,6,7,9_ATTACHMENT_VA claims handling compliance course".

(7) The company created a Virginia compliance course which will be incorporated into our New Hire Orientation Training. This course covers the subject of properly representing pertinent facts

or insurance provisions relating to coverages at issue. All adjusters handling Virginia claims are required to take this Virginia compliance course by 5-30-20. The company will track progress and completion of the training module for each adjuster. A PDF of this course is attached as "PART TWO_Claims Review 4,5,6,7,9_ATTACHMENT_VA claims handling compliance course".

(8) The company has modified its check payment drafts to identify the specific coverage(s) under which payments are made to insureds. A PDF of the updated check is attached as PART TWO_Claims_8_ATTACHMENT TO CLAIMS CAP_check copy.

(9) The company created a Virginia compliance course which will be incorporated into our New Hire Orientation Training. This course covers the subject of the requirement to obtain an assignment of benefits ("AOB") in writing and the proper usage and documentation procedures for the AOB document. This will ensure proper payment of medical payment benefits. All adjusters handling Virginia claims are required to complete this Virginia compliance course by 5-30-20. The company will track progress and completion of the training module by each adjuster. A PDF of this course is attached as "PART TWO_Claims Review 4,5,6,7,9_ATTACHMENT_VA claims handling compliance course".

(10) The Bureau recently opened Regulatory Action #901. Regulatory Action #901 requires the company to audit its UMPD claims handling. The company started auditing the required claims files and is submitting regular periodic reports to the Bureau until such audit is completed. As such, the company believes this item is being handled outside of the CAP and will continue to work with the Bureau on this matter.

Forms Review

The company will implement the standard automobile form "Additional Insured – Lessor".

Policy Issuance Process Review

The company admits that it did not include the Policy Book with the submittal of the initial five (5) new business policies. However, that was not due to a failure to provide the Policy Book to the insured at new business as the Policy Book is provided to the insured and listed on the declarations page for all new business policies. In addition, the company will ensure that the Loss Payable Clause (PP-03-05-08-86) is no longer listed on the declarations page if inapplicable.

Statutory Notices Review

- (1) In anticipation of this request the company began the process to modify the Long Form Notice of Information Collection and Disclosure Practices (PRIPO-VA-0111) to list each type of disclosure made under 38.2-604 C2. Upon receipt of the final report the company will begin the process of activating the new document (which will permit us to update the title) which we have attached to this response as "PART TWO_Statutory Notices Review_1_Privacy Policy_VA_CW_v5".
- (2) Per the Examiners request, the company amended the phone script short form notice to comply with the requirements of §38.2-604 C.

- (3) As outlined in our response to NoticesSVN-155967313, the company continues to disagree with this observation as forms POLIS-VA-0916 and RENMM-VA-011, along with the automated pop-up notice that occurs during the online application process satisfy the requirement to offer rental reimbursement for both new and renewal business.

Complaint-Handling Process

The company agreed with this observation CRGenCom-1901336438 as such issue was caused due to formatting within the system causing the submitted document to crop off the “line of business” column. The company has undertaken a revision to the export/print logic of our register to ensure future requests include all information listed within the register and have clarified our process to ensure complaints are marked as “Submitted” rather than “Closed” when no further correspondence is/was received from the Bureau.

PART THREE – RESPONSE TO RECOMMENDATIONS

We acknowledge and appreciate the recommendations made by the examiners and have taken the following steps to more finely tune our processes and procedures for Virginia policies.

Rating and Underwriting

We acknowledge and appreciate the recommendations made by the examiners in Section Three of the draft report, and assure the Department that such matters are being actively monitored and we will continue to consider necessary modifications as we move forward with our business plans in Virginia.

Termination

While we do not admit to failing to file any SR-26 within 15 days of cancellation, we have verified that a new manual process has been put into place whereby the company will maintain proper documentation of the date that each SR-26 is filed with the DMV in line with the Bureau’s recommendation.

Claims

The company has taken the recommendations of the Bureau related to claims handling under intense consideration and have allocated many resources to address the recommendations cited by the Bureau. The company has redesigned and created training modules for our adjusters with a refined focus on Virginia specific claims items to include many aspects of our claims handling process. The company believes its efforts have resulted in an improved process and intends to continue to update our internal procedures as necessary to meet the expectations of future market conduct examinations.

Statutory Notices

The company intends to remove the TDD phone number and capitalize the 60-day Cancellation Warning notice for all SAIC notices within 30 days of receiving the final report from the Bureau.

Acknowledgement

We extend our thanks and appreciation to the entire Bureau examination team, Examiner-in-charge Ju'Coby Hendrick, and the Examiners: Andrea Baytop, Brandon Ayers, Latitia Orange, Dan Koch, and Gloria Warriner, for your courtesy and cooperation during both off-site and on-site interactions over the course of the examination.

COMMONWEALTH OF VIRGINIA



SCOTT A. WHITE
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

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June 29, 2020

VIA E-MAIL DELIVERY

Kelly A. Armstrong
General Counsel
Safe Auto Insurance Company
4 Easton Oval
Columbus, OH 43219

Re: Market Conduct Examination
Safe Auto Insurance Company (NAIC #25405)
Examination Period: April 1, 2018 – March 31, 2019

Dear Ms. Armstrong:

The Bureau of Insurance (Bureau) has reviewed Safe Auto Insurance Company's (Company) May 27, 2020 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 Rating

- (3) The Report has been amended to add 12 violations of § 38.2-1904 D of the Code of Virginia. The Company's filed manual only provided for surcharges when a conviction applied; the applicants were asked to disclose all tickets and violations. A violation does not automatically equate to a conviction. There has to be evidence of a conviction to surcharge under a Safe Driver Insurance Plan (SDIP). In addition, the statute allows for application of the surcharge based upon the conviction date. Unless a violation appears on a motor vehicle report from DMV and is supported by a conviction date a surcharge should not be applied. Insurers may use self-reported information to rate policies but point surcharges under a Safe Driver Insurance Plan must be based upon convictions. Please note that rate and rule filings are filed and available for use on the date filed or any time after that filing date, rate and

rule filings are not approved in Virginia. The numbering in the Report has been amended to reflect this addition.

- (4a) This section was previously numbered (3a) in the Report. After further review, the violations for RPA001, RPA004, RPA005, RPA010, RPA023, RPA034, RPA036, RPA040, RPA041, RPA042, RPA048 and RPA050 have been withdrawn from the Report. These violations have been rewritten to violations of § 38.2-1904 D of the Code of Virginia
- (4b) This section was previously numbered (3b) in the Report. The violation for RPA002 remains in the Report. The Company filed to use ISO's Advisory RAPA symbols that require a manual calculation. The Company had insufficient information for the examiners to calculate the appropriate symbols. Therefore, the examiners relied upon the symbol determination obtained directly from ISO. For reconsideration, the Company must provide documentation from ISO that it used the appropriate symbols for the policy term under review.
- (4g) This section was previously numbered (3g) in the Report. The violation for RPA022 remains in the Report. The Company's Rate Map confirms that it applied a factor of 1.00 to all insurance score related variables; however, this is not clear in the filed manual. The Company's filed rules were incomplete regarding insureds younger than 19, rated with a neutral insurance credit score. The Company should update its Insurance Score Group by Status table and Insurance Score Group Factor table to include a NULL Group. The Company should also update its Insurance Score Rule RR-48 to explain how to rate a policy when the insured is less than 19 years old and/or requires a neutral rating factor.

Automobile Renewal Business

- (2) The Report has been renumbered to add three violations of § 38.2-1904 D of the Code of Virginia. The Company's filed manual only provided for surcharges when a conviction applied; the applicants were asked to disclose all tickets and violations. A violation does not automatically equate to a conviction. There has to be evidence of a conviction to surcharge under the SDIP. In addition, the statute allows for application of the surcharge based upon the conviction date. Unless a violation appears on a motor vehicle report from DMV and is supported by a conviction date a surcharge should not be applied. Insurers may use self-reported information to rate policies but point surcharges under a Safe Driver Insurance Plan must be based upon convictions. The numbering in the Report has been amended to reflect this addition.
- (3b) This section was previously numbered (2b) in the Report. After further review, the violations for RPA074 and RPA080 have been withdrawn from the Report. These violations have been rewritten to violations of § 38.2-1904 D of the Code of Virginia.

In addition, after further review, the violation for RPA092 has been withdrawn.
- (3c) This section was previously numbered (2c) in the Report. The violations for RPA068, RPA072 and RPA076 remain in the Report. The Company filed to

use ISO's Advisory RAPA symbols that require a manual calculation. The Company had insufficient information for the examiners to calculate the appropriate symbols. Therefore, the examiners relied upon the symbol determination obtained directly from ISO. For reconsideration, the Company must provide documentation from ISO that it used the appropriate symbols for the policy term under review. The Report has been renumbered to reflect this change.

(3e) This section was previously numbered (2e) in the Report. The Bureau acknowledges the Company corrected this issue under SERFF Tracking Number SAFE-131995447.

(3f) This section was previously numbered (2f) in the Report. The violation for RPA080 remains in the Report. The Vehicle Assignment document referenced in the Company's attachment was not included with the Company's response. The Company should clarify its Driver-Vehicle Assignment Rule RR-7 as it provides two conflicting rules. Item 2 of this rule states drivers will be assigned per the Named Insured. Item 3 of the rule states the highest rated driver will be assigned to the highest rated vehicle.

The Company is able to discuss any issues with the premium overcharges in Part One of the Report as it relates to the corresponding violation or in Part Two of the Report where restitution is requested.

Automobile Cancellation Nonpayment of Premium

(2) The violations for TPA023 and TPA039 remain in the Report. The Company did not provide the correct EPOM information for the cancellation dates associated with TPA023 and TPA039.

After further review, the violations for TPA022, TPA024, TPA026, TPA027, TPA028, TPA029, TPA030, TPA033, TPA034, TPA035, TPA036, TPA038, TPA041, TPA042, TPA043 and TPA044 have been withdrawn.

(3) After further review, the violation for TPA025 has been withdrawn from the Report.

Automobile Cancellation Requested by the Insured

(1) The violation for TPA060 remains in the report. The Company provided a Safe Auto Oklahoma Declarations page as justification for not calculating the insured's refund at 90% of the pro rata unearned premium, per the Termination Provisions in Virginia Personal Automobile Policy PP 01 99 10 15. If the Company would like to amend its Termination Provisions to calculate insured requested refunds on a pro rata basis for particular circumstances, the Company must file a broadening with the Rates and Forms Section.

Private Passenger Automobile Claims

(2c) The violations cited in this section remain in the Report. The Bureau was prepared to remove the underpayments from the restitution spreadsheet and allow these items to be addressed in Regulatory Action (RA) #901; however,

CPA057 is the only underpayment cited in the Report that is included in the spreadsheet the Company provided in response to RA #901. In addition, RA #901 indicated this claim file was handled properly and there was no indication that restitution was made; however, the restitution spreadsheet included with the Company's response to the Report indicates that restitution has been paid. There is a disconnect between the information in RA #901 and the Company's response to the Restitution Spreadsheet.

- (16) The violation of CPA093 remains in the Report. The Company has acknowledged in its response that the provider was paid without a valid AOB. The Company must make the restitution outlined in the attached Restitution Spreadsheet.

Statutory Vehicle Notices Review

After further review, the violation for NSV008 has been withdrawn from the Report. The Report has been updated to reflect this change.

PART TWO – CORRECTIVE ACTION PLAN

Rating and Underwriting Review

- (1) If the Company disagrees with the amount of an overcharge, the Company should explain why the restitution should be different and provide supporting documentation.
- (3) The Company should make restitution for any overcharges not being disputed and report the requested payment information in the Restitution spreadsheet.
- (4,5,6) The Company should provide estimated completion dates for its corrective actions.
- (6) The Company should follow its filed rules and surcharge an insured's policy only for convictions, not citations.

Termination Review

- (1) The Company should explain why restitution has not been made for any of the files referenced and provide supporting documentation for its position.
- (3) The Company should make the outstanding restitution for any overcharges shown in the Restitution Spreadsheet.
- (4) Advise when the filings will be made for the daily rate calculation rule.
- (6) Obtain valid proof of mailing the cancellation notice to the insured.

Claims

- (1) The Company should make the outstanding restitution.
- (4,6,7,9) The Bureau acknowledges the Company has created VA Claims Compliance course to be incorporated into the Company's New Hire Orientation training.

- (5) The Company should modify its VA Claims Compliance course – Medical Payments, to include reference to the Medical Expense Benefits stacking requirements in Virginia.
- (8) The Bureau acknowledges the Company has modified its check payment draft to include identifying coverage(s).

Notices

- (2) Please provide a copy of the amended phone script for review.

We have made the changes noted above to the Market Conduct Examination Report. Enclosed with this letter is a revised version of the Report, technical reports and Restitution spreadsheet and any review sheets withdrawn, added or altered as a result of this review. The Company's response to this letter is due in the Bureau's office by July 20, 2020.

Once we have received and reviewed the Company's responses to these items, we will be in a position to make a settlement offer. We look forward to your response by July 20, 2020.

Sincerely,



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

Enclosures



4 Easton Oval
Columbus, OH 43219
1-800-SAFEAUTO
(1-800-723-3288)

July 29, 2020

Sent via E-Mail

Bureau of Insurance
Market Conduct Section
Property & Casualty Section
Attn: Joy Morton
Joy.morton@ssc.virginia.gov

**Re: Market Conduct Examination (VA-VA177-7) of Safe Auto Insurance Company
Examination Period: April 1, 2018 – March 31, 2019**

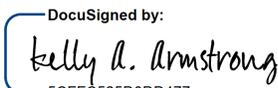
Ms. Morton:

Pursuant to 38.2-1317 of the Code of Virginia, Safe Auto Insurance Company (“Safe Auto”) submits the following in response to the Response to Safe Auto’s Response to the Preliminary Report (the “Report”) submitted by the Virginia Bureau of Insurance (“Bureau”) on June 29, 2020.

The following commentary includes specific reference to the impacted sections of the Report. All comments included herein should be deemed to include Safe Auto’s initial responses as well as any references to such alleged violations set forth elsewhere in the report. This includes, but is not limited to, the information provided within the Report under PART ONE – THE EXAMINER’S OBSERVATIONS, PART TWO – CORRECTIVE ACTION PLAN, and PART THREE - RECOMMENDATIONS.

Finally, Safe Auto has provided the Bureau with extensive documentation in support of our responses to various observations generated throughout the course of this exam. Safe Auto expressly relies upon all such documentation in support of the comments and objections asserted within and incorporates such documentation by reference herein.

Regards,

DocuSigned by:

5CFFC525D0DD477...
Kelly A. Armstrong
General Counsel

SAFE AUTO'S RESPONSE TO PART ONE – EXAMINERS OBSERVATIONS

RATING AND UNDERWRITING REVIEW

Automobile New Business Policies

(3) While typically the company has provided individual responses to each observation in a word document provided by the examiners, the most recent batch of observations transferring cited violations under Virginia Code §38.2-1906 D to Virginia Code §38.2-1904 D were provided by the examiners in a single pdf and thus the company is not able to utilize the method of receive and respond as has been utilized throughout this exam. Additionally, each of these observations have an identical response and the company believes responding as such will expedite future correspondence on the items relating to Virginia Code §38.2-1904 D.

The company respectfully disagrees with the 12 new observations related to Virginia Code §38.2-1904 D and its use of self-reported violations to surcharge the policy. The statute states in full as follows: "*D. No insurer shall use any information pertaining to any motor vehicle conviction or accident to produce increased or surcharged rates above their filed manual rates for individual risks for a period longer than 36 months. This period shall begin no later than 12 months after the date of the conviction or accident.*" The entirety of Section D addresses only the time periods not that an insurer can or cannot surcharge on self-reported convictions or accidents. Nothing in the statute, case law, nor bulletins or advisory letters from the BOI address this statute and its application to surcharges for self-reported violations. To attempt to address the requirement to not use self-reported violations, which are oftentimes more reliable for recent violations than that found in the MVR, would amount to an attempt to legislate from within the Bureau instead of through the elected officials of Virginia. If the legislature had intended to prohibit self-reported violations without an accompanying "hit" on an MVR, they would have simply stated that within any of the many statutes addressing rating and underwriting of insurance risks. However, §38.2-1904 D has no such prohibition and only focuses on the timeline for surcharging individuals for such violations.

(4)g – The company is in the process of updating the rules and tables as recommended and will submit them with a new rate/rule filing estimated to occur on or before September 4, 2020.

Automobile Renewal Business Policies

(2) - While typically the company has provided individual responses to each observation in a word document provided by the examiners, the most recent batch of observations transferring cited violations under Virginia Code §38.2-1906 D to Virginia Code §38.2-1904 D were provided by the examiners in a single pdf and thus the company is not able to utilize the method of receive and respond as has been utilized throughout this exam. Additionally, each of these observations have an identical response and the company believes responding as such will expedite future correspondence on the items relating to Virginia Code §38.2-1904 D.

The company respectfully disagrees with the 12 new observations related to Virginia Code §38.2-1904 D and its use of self-reported violations to surcharge the policy. The statute states in full as follows: "*D. No insurer shall use any information pertaining to any motor vehicle conviction or accident to produce increased or surcharged rates above their filed manual rates for individual risks for a period longer than 36 months. This period shall begin no later than 12 months after the date of the conviction or accident.*" The entirety of Section D addresses only the time periods not that an insurer can or cannot surcharge on self-reported convictions or accidents. Nothing in the statute, case law, nor bulletins or advisory letters from the BOI address this statute and its application to surcharges for self-reported violations. To attempt to address the requirement to

not use self-reported violations, which are oftentimes more reliable for recent violations than that found in the MVR, would amount to an attempt to legislate from within the Bureau instead of through the elected officials of Virginia. If the legislature had intended to prohibit self-reported violations without an accompanying “hit” on an MVR, they would have simply stated that within any of the many statutes addressing rating and underwriting of insurance risks. However, §38.2-1904 D has no such prohibition and only focuses on the timeline for surcharging individuals for such violations.

(3f) – The company is in the process of updating the rules and tables as recommended and will submit them with a new rate/rule filing estimated to occur on or before September 4, 2020.

TERMINATION REVIEW

All Other Cancellations - Automobile Policies

Nonpayment of Premium

(2) As requested by the examiners, the company has provided accompanying documents for TPA023 and TPA039, specifically the (1) Notice of Cancellation, (2) mail/dat file, (3) USPS receipt, and (4) proof of mail report that links the documents in showing valid proof of mail for each policy, in the belief that such information, in support of the company’s prior detailed responses on similar observations, will result in the withdrawal of the remaining two (2) items concerning electronic proof of mailing.

Requested by the Insured

(1) The company is in the process of drafting a broadening of its Termination Provisions to allow for insured requested cancellations to be refunded on a pro rata basis for particular circumstances. The company will also update rule RR-33 Cancellations and RR-49 Premium Returns in its manual to reflect the new provisions with an estimated completion date on or before September 4, 2020.

CLAIMS REVIEW

Private Passenger Automobile Claims

(2)C – The company has addressed the disconnect between the restitution spreadsheet and the Regulatory Action (RA) #901. The information provided on the Restitution Spreadsheet is correct. The reviewer who was responsible for a portion of the claims being reviewed under Regulatory Action (“RA”) #901 completed their review after the restitution was paid to the claimant in CPA057. Therefore, the claim appeared to have been appropriately paid (i.e., the deductible was refunded to the claimant on 5/15/2020), and the reviewer indicated the same on the spreadsheet for RA #901. While this is correct, the company understands that it may have caused confusion for the examiners. Going forward, we have now requested that reviewers auditing future claims mark them as “Paid as part of the Market Conduct Exam/MCE”.

(16) The company continues to dispute that paying the claimant the full amount of the claim is an equitable remedy. While the company admits that it failed to get a written AOB, the full claim amount was paid to the medical provider and thus the claimant was not wronged nor in need of being “made whole”. However, as it is clear that the examiners believe full payment is the appropriate remedy, the company has made the requested restitution as outlined in the attached ““Revised Safe Auto Restitution Spreadsheet_072920”.

PART TWO – SAFE AUTO’S CORRECTIVE ACTION PLAN (CAP)

Rating and Underwriting Review

(1) and (3) The company has made the outstanding restitution as provided in the Claims tab of the submitted document titled “Revised Safe Auto Restitution Spreadsheet_072920”.

(4) The company has undertaken the creation of a project to ensure that the total policy premium, including applicable fees, and all applicable forms are listed on the declarations page with an estimated completion date of August 25, 2020.

(5) The company removed reference to “excluded drivers” on the application questionnaire. The company has undertaken a project to remove all references to “excluded drivers” from PINCR-VA-011 with an estimated completion date of August 25, 2020.

(6) The company is in the process of updating the rules and tables as recommended and will submit them with a new rate/rule filing estimated to occur on or before September 4, 2020.

Termination Review

(1) and (3) The company has made the outstanding restitution as provided in the Claims tab of the submitted document titled “Revised Safe Auto Restitution Spreadsheet_072920”.

(4) The company is in the process of updating the daily rate calculation rule as recommended and will submit them with a new rate/rule filing estimated to occur on or before September 4, 2020.

(5) Per the company’s responses and supporting documents concerning valid proof of mailing the cancellation notice to the insured, the company believes that such information in support of the company’s prior detailed responses on similar observations will result in the withdrawal of the remaining two observations concerning electronic proof of mailing and removal of this requirement from the Corrective Action Plan.

Claims Review

(1) The company has made the outstanding restitution as provided in the Claims tab of the submitted document titled “Revised Safe Auto Restitution Spreadsheet_072920”.

(5) The company has modified its VA Claims Compliance course – Medical Payments, to include reference to the Medical Benefits stacking requirements in Virginia as provided on the attached document titled “PART TWO_Claims Review_Revised VA Claims Handling Course”.

Statutory Notices Review

(2) Per the Examiners request, the company has included the revised and current phone script which complies with the requirements of §38.2-604 C as “PART TWO_Statutory Notices Review_Attachment for 2_compliance with 38.2-604 C”.

(3) Per the examiners removal of NSV008, the company believes that this item should be removed from the Corrective Action Plan.

COMMONWEALTH OF VIRGINIA



SCOTT A. WHITE
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

P.O. BOX 1157
RICHMOND, VIRGINIA 23218
1300 E. MAIN STREET
RICHMOND, VIRGINIA 23219
TELEPHONE: (804) 371-9741
www.scc.virginia.gov/boi

August 7, 2020

VIA E-MAIL DELIVERY

Kelly A. Armstrong
General Counsel
Safe Auto Insurance Company
4 Easton Oval
Columbus, OH 43219

Re: Market Conduct Examination
Safe Auto Insurance Company (NAIC#: 25405)
Examination Period: April 1, 2018 – March 31, 2019

Dear Ms. Armstrong:

The Bureau of Insurance (Bureau) has concluded its review of the company's response of July 30, 2020. Based upon the Bureau's review we are now able to conclude this examination. Enclosed is the final Market Conduct Examination Report of Safe Auto Insurance Company (Report).

Automobile New Business Rating and Underwriting

- (3) The violations cited in this section of the Report remain. The Bureau is aware that §38.2-1904 D does not address self-reported accidents. However, the statute stipulates that the accident and/or moving violation cannot be surcharged for more than 36 months from the conviction date. If the company has no evidence of a conviction date, then the file is not documented to support that the surcharge has not been applied beyond the 36-month period allowed by the statute.

Automobile Renewal Business Rating and Underwriting

- (2) The violations cited in this section of the Report remain. The Bureau is aware that §38.2-1904 D does not address self-reported accidents. However, the statute stipulates that the accident and/or moving violation cannot be surcharged for more than 36 months from the conviction date. If the company has no evidence of a conviction date, then the file is not documented to support that the surcharge has not been applied beyond the 36-month period allowed by the statute.

Termination Review

Nonpayment of Premium

- (2) Based upon additional documentation provided by the Company the violations of TPA023 and TPA039 have been withdrawn.

Corrective Action Plan

Statutory Notices

- (3) All reference to the Rental Reimbursement Notice has been withdrawn from the Report.

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

Sections 38.2-305 A, 38.2-502 1, 38.2-510 A 1, 38.2-510 A 10, 38.2-511, 38.2-604 B, 38.2-604 C, 38.2-1904 D, 38.2-1906 D, 38.2-2201 D, 38.2-2206 A, 38.2-2220 of the Code of Virginia; and 14 VAC 5-400-30 C, 14 VAC 5-400-40 A, and 14 VAC 5-400-70 D of the Virginia Administrative Code.

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

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

Sincerely,



Joy M. Morton
Manager
Market Conduct Section
Property and Casualty Division
(804) 371-9540
(804)396-8380 (CELL)
joy.morton@scc.virginia.gov

Enclosure



4 Easton Oval
Columbus, OH 43219
1-800-SAFEAUTO
(1-800-723-3288)

SEP 18 11:00 AM
STATE OF VIRGINIA
BUREAU OF INSURANCE

September 16, 2020

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

RE: Market Conduct Examination Settlement Offer
Ecase/Docket Number: INS-2020-00179

Dear Ms. Nichols:

This will acknowledge receipt of the Bureau of Insurance's letter dated August 14, 2020, concerning the above referenced matter.

We wish to make a settlement offer on behalf of the insurance company listed below for the alleged violations of 38.2-305 A, 38.2-502 1, 38.2-510 A 1, 38.2-510 A 10, 38.2-511, 38.2-604 B, 38.2-604 C, 38.2-1904 D, 38.2-1906 D, 38.2-2201 D, 38.2-2206 A, 38.2-2220 of the Code of Virginia; and 14 VAC 5-400-30 C, 14 VAC 5-400-40 A, and 14 VAC 5-400-70 D of the Virginia Administrative Code to indicate a general business practice.

1. We enclose with this letter a check payable to the Treasurer of Virginia in the amount of \$56,000.
2. We agree to comply with the corrective action plan set forth in the company letters of May 27, 2020 and July 30, 2020.
3. We confirm that restitution was made to 77 consumers for \$20,366.86 in accordance with the company's letters of May 27, 2020 and July 30, 2020.
4. We further acknowledge the company's right to a hearing before the State Corporation Commission in this matter and waive that right if the State Corporation Commission accepts this offer of settlement.

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

Sincerely,

Safe Auto Insurance Company, NAIC #25405

Kelly A. Armstrong
(Signed)

Kelly A. Armstrong
(Type or Print Name)

Chief Legal Officer
(Title)

September 16, 2020
(Date)

Enclosure: Check Number 0002056181

COMMONWEALTH OF VIRGINIA



SCOTT A. WHITE
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

P.O. BOX 1157
RICHMOND, VIRGINIA 23218
1300 E. MAIN STREET
RICHMOND, VIRGINIA 23219
TELEPHONE: (804) 371-9741
scc.virginia.gov

Safe Auto Insurance Company has tendered to the Bureau of Insurance the settlement amount of \$56,000 by its check numbered 0002056181 and dated September 9, 2020, a copy of which is located in the Bureau's files.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, OCTOBER 16, 2020

SCC-CLERK'S OFFICE
DOCUMENT CONTROL CENTER

2020 OCT 16 A 11: 55

2020 OCT 16 A 11: 55

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2020-00179

SAFE AUTO INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Safe Auto Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Virginia"), violated: § 38.2-305 A of the Code of Virginia ("Code") by failing to include the information required by the statute in the insurance policy; § 38.2-502 (1) of the Code by misrepresenting the benefits, advantages, conditions or terms of an insurance policy; § 38.2-510 A 1 of the Code by misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue; § 38.2-510 A 10 of the Code by failing to include with claims payments a statement setting forth the coverage under which payments are being made; § 38.2-511 of the Code by failing to maintain a complete record of the Defendant's written complaints as required by statute; § 38.2-604 B of the Code by failing to have an Information Collection and Disclosure Practices notice that complies with the statute; § 38.2-604 C of the Code by failing to provide insureds with a compliant abbreviated written notice regarding the Defendant's Notice of Information Collection and Disclosure Practices; § 38.2-1904 D of the Code by failing to confirm the conviction date prior to surcharging a policy for a traffic violation; § 38.2-1906 D of the Code by failing to use the rate and supplementary

rate information on file with the Bureau; § 38.2-2201 D of the Code by failing to obtain a valid assignment of benefits from the insured authorizing direct payment to the medical provider; § 38.2-2206 A of the Code by improperly applying the uninsured motorist exclusion of the first \$200 of the loss or damage; § 38.2-2220 of the Code by failing to use forms in the precise language of the standard forms previously filed and adopted by the Commission; as well as 14 VAC 5-400-30 C, 14 VAC 5-400-40 A, and 14 VAC 5-400-70 D of the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, of the Virginia Administrative Code, 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 the right to a hearing in this matter whereupon the Defendant, without admitting or denying any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has agreed to comply with the corrective action plan outlined in company correspondence dated May 27, 2020 and July 29, 2020; has confirmed restitution was made to 77 consumers in the amount of Twenty Thousand Three Hundred Sixty Six Dollars and Eighty-six Cents (\$20,366.86); has tendered to the Treasurer of Virginia the sum of Fifty Six Thousand Dollars (\$56,000); and has waived the right to a hearing.

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.

A COPY of this order shall be sent by the Clerk of the Commission by electronic mail to: Kelly A. Armstrong, General Counsel, Safe Auto Insurance Company, at Kelly.Armstrong@safeauto.com; and a copy shall be delivered to the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner Rebecca Nichols.