

**MARKET CONDUCT EXAMINATION REPORT**

**OF**

**BRISTOL WEST INSURANCE COMPANY**

**BRISTOL WEST CASUALTY INSURANCE  
COMPANY**

**AS OF**

**DECEMBER 31, 2009**

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

**Property and Casualty Division  
Market Conduct Section**

# COMMONWEALTH OF VIRGINIA

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

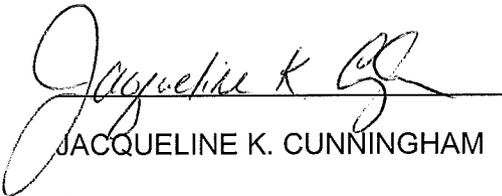


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## STATE CORPORATION COMMISSION BUREAU OF INSURANCE

I, Jacqueline K. Cunningham, Commissioner of Insurance of the Commonwealth of Virginia, do hereby certify that the annexed copy of the Market Conduct Examination Report of Bristol West Insurance Company and Bristol West Casualty Insurance Company as of October 19, 2011, which took place at the companies' offices in Independence, Ohio and Richmond, Virginia is a true copy of the original Report on file with the Bureau and also includes a true copy of the companies' final response to the findings set forth therein, and of the Bureau's letter and the Order of the State Corporation Commission finalizing the Report.

**IN WITNESS WHEREOF**, I have  
hereunto set my hand and affixed  
the official seal of this the Bureau  
at the City of Richmond, Virginia,  
this 28th day of October, 2011.

  
JACQUELINE K. CUNNINGHAM  
Commissioner of Insurance

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## INTRODUCTION

Pursuant to the authority of § 38.2-1317 of the Code of Virginia, a target examination has been made of the private passenger automobile line of business written by Bristol West Casualty Insurance Company and Bristol West Insurance Company at its offices in Independence, Ohio and Richmond, Virginia.

The examination commenced June 14, 2010 and concluded November 15, 2010. William T. Felvey, Karen S. Gerber, Richard L. Howell, Gloria V. Warriner and Roushawn V. White-Simmons, examiners of the Bureau of Insurance, and Joyclyn M. Morton, Market Conduct Supervisor of the Bureau of Insurance, participated in the work of the examination. The examination was called in the Examination Tracking System on January 29, 2010 and was assigned the examination number of VA199-M15. The examination was conducted in accordance with the procedures established by the National Association of Insurance Commissioners (NAIC).

## COMPANY PROFILES

Bristol West Casualty Insurance Company (BWCIC) was incorporated in the state of Ohio as Reliant Casualty Insurance Company on April 19, 1999. Effective as of March 31, 2001, the company was acquired by Coast National Insurance Company. The current title was adopted on February 5, 2002. The company is licensed in four states.

Bristol West Insurance Company (BWIC) was incorporated in Pennsylvania on February 9, 1968 as Vista Insurance Company and commenced business on June 10, 1968. Effective as of March 31, 2001, the company was acquired by Coast National Insurance Company. The current title was adopted on November 21, 2001. The company redomesticated from Pennsylvania to Ohio on September 27, 2006. The company is licensed in the District of Columbia and 38 states.

All companies are based in Independence, Ohio.\*

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

<b>GROUP CODE: 212</b>	<b>BWCIC</b>	<b>BWIC</b>
<b>NAIC Company Number</b>	11034	19658
<b>LICENSED IN VIRGINIA</b>	08/17/2007	09/24/1969
<b>LINES OF INSURANCE</b>		
Accident and Sickness		10/21/1998
Aircraft Liability		X
Aircraft Physical Damage		X
Animal		X
Automobile Liability	X	X
Automobile Physical Damage	X	X
Boiler and Machinery		X
Burglary and Theft		X
Commercial Multi-Peril		X
Credit		X
Credit Accident & Sickness		X
Farmowners Multi-Peril		X
Fidelity		X
Fire		X
General Liability		X
Glass		X
Homeowners Multi-Peril		X
Inland Marine		X
Miscellaneous Property		X
Ocean Marine		X
Surety		X
Water Damage		X
Workers' Compensation		X

\* Source: Best's Insurance Reports, Property & Casualty, 2009 Edition.

The table below shows the companies' premium volume and approximate market share of business written in Virginia during 2009 for the lines of insurance included in this examination.\* This business was developed through both captive and independent agents.

COMPANY AND LINE	PREMIUM VOLUME	MARKET SHARE
<b>Bristol West Casualty Ins Co</b>		
Private Automobile Liability	\$9,255,359	0.09%
Private Automobile Physical Damage	\$5,148,203	0.05%
<b>Bristol West Insurance Co</b>		
Private Automobile Liability	\$1,125,682	0.01%
Private Automobile Physical Damage	\$360,030	0.00%

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\* Source: The 2009 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 companies' private passenger automobile line of business written in Virginia for the period beginning January 1, 2009 and ending December 31, 2009. 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 companies' operations were consistent with the public interest. The Report is by test, and all tests applied during the examination are reported.

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

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

In Part Three, the examiners identify any violations that are not considered a general business practice. Also included in this section are recommendations regarding the companies' practices that are not violations of Virginia insurance laws but require some action by the companies. This section does not form the basis of any settlement offer made by the Bureau.

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

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

### **STATISTICAL SUMMARY**

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

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

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

**Population  
Sample Requested**

AREA	<u>BWIC</u>	<u>BWCIC</u>	<u>TOTAL</u>	<u>FILES REVIEWED</u>	<u>FILES NOT FOUND</u>	<u>FILES WITH ERRORS</u>	<u>ERROR RATIO</u>
<b><u>Private Passenger Auto</u></b>							
New Business	<u>0</u>	<u>8712</u>	<u>8712</u>	20	0	20	100%
Renewal Business	<u>2017</u>	<u>11284</u>	<u>13301</u>	40	0	40	100%
Co-Initiated Cancellations <sup>1</sup>	<u>1</u>	<u>54</u>	<u>55</u>	11	0	1	9%
All Other Cancellations <sup>1</sup>	<u>5010</u>	<u>17974</u>	<u>22984</u>	69	0	28	41%
Nonrenewals <sup>1</sup>	<u>19</u>	<u>62</u>	<u>81</u>	10	0	2	20%
	5	5	10				
<b><u>Claims</u></b>							
Auto	<u>215</u>	<u>1947</u>	<u>2162</u>	87	0	66	76%
	35	52	87				

Footnote <sup>1</sup> The company was unable to provide accurate data in these categories.

## **PART ONE - THE EXAMINERS' OBSERVATIONS**

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

### **RATING AND UNDERWRITING REVIEW**

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

The Bureau requested 20 new business policy files for review. The examiners reviewed all of these files. The examiners found overcharges totaling \$66.00 and undercharges totaling \$220.00 during the review of these files. The net amount that should be refunded to insureds is \$66.00 plus six percent (6%) simple interest.

- (1) The examiners found 23 violations of § 38.2-305 A of the Code of Virginia. The company failed to specify in the insurance contract or policy all of the information required by the statute.
  - a. In four instances, the company failed to list all applicable forms on the declarations page.
  - b. In 19 instances, the company listed endorsements that were not applicable to the policy.
- (2) The examiners found 13 violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions or terms of the insurance policy. The company misrepresented the Transportation Expenses coverage and the Towing and Labor coverage by improperly showing a daily limit on the declarations page.
- (3) The examiners found 27 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau.

- a. In eight instances, the company failed to use the correct discounts and/or surcharges.
- b. In 18 instances, the company failed to use the correct tier eligibility criteria.
- c. In one instance, the company failed to follow the Unverifiable Driving Record rule on file with the Bureau.

### **Automobile Renewal Business Policies**

The Bureau requested 40 renewal business policy files for review. The examiners reviewed all of these files. The examiners found overcharges totaling \$371.00 and undercharges totaling \$486.00 during the review of these files. The net amount that should be refunded to insureds is \$371.00 plus six percent (6%) simple interest.

- (1) The examiners found 50 violations of § 38.2-305 A of the Code of Virginia. The company failed to specify in the insurance contract or policy all of the information required by the statute.
  - a. In 13 instances, the company failed to list all applicable forms on the declarations page.
  - b. In 37 instances, the company listed forms on the declarations page that were not applicable to the policy.
- (2) The examiners found 21 violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of an insurance policy. The company misrepresented the Transportation Expenses coverage and the Towing and Labor coverage by improperly showing a daily limit on the declarations page. The company incorrectly indicated an Inexperienced Operator surcharge on the declarations page.

- (3) The examiners found one violation of § 38.2-1905 C of the Code of Virginia. The company assigned points under a Safe Driver Insurance Plan (SDIP) to a vehicle other than the one customarily driven by the operator responsible for incurring the points.
- (4) The examiners found 36 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 seven instances, the company failed to use the correct discounts and/or surcharges.
  - b. In five instances, the company failed to apply the correct points for accidents and/or convictions.
  - c. In 24 instances, the company failed to use the correct tier eligibility criteria.

#### **TERMINATION REVIEW**

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

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

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

The Bureau requested ten automobile cancellations that were initiated by the company where the company mailed the notices prior to the 60th day of coverage in the initial policy period. The examiners reviewed eight of these files. Two files were moved to the Insured Requested Cancellation category and two files were moved from the Notice Mailed After the 60<sup>th</sup> Day category. The examiners found no overcharges and no undercharges during the review of these files.

The examiners found no violations in this area.

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

The Bureau requested five automobile cancellations that were initiated by the companies where the companies mailed the notices on or after the 60<sup>th</sup> day of coverage in the initial policy period or at any time during the term of a subsequent renewal policy. The examiners reviewed one of these files. One file was moved to the Cancellation for Nonpayment of Premium category. Two files were moved to the Notice Mailed Prior to the 60<sup>th</sup> day category and one file was moved to the Insured Requested Cancellation category. The examiners found no overcharges and no undercharges during the review of these files.

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

**All Other Cancellations – Automobile Policies**

NONPAYMENT OF THE PREMIUM

The Bureau requested 40 automobile cancellations that were initiated by the companies for nonpayment of the policy premium. The examiners reviewed 28 of these files. One file was moved to the Insured Requested Cancellation category. Five files were expirations and five files were renewals. One file was moved from the Notice Mailed After the 60<sup>th</sup> Day category. Finally, one file was not reviewed because coverage was rescinded. The examiners found no overcharges and no undercharges during the review of these files.

The examiners found one violation of § 38.2-2208 B of the Code of Virginia. The company failed to retain a copy of the cancellation notice sent to the lienholder.

REQUESTED BY THE INSURED

In addition, the Bureau requested 34 automobile cancellations that were initiated by the insured where the cancellation was to be effective during the policy term. The examiners reviewed 38 files. One file was moved from the Cancellation for Nonpayment of Premium category. Two files were moved from the Notice Mailed Prior to the 60<sup>th</sup> day category. Finally, one file was moved from Cancellation After the 60<sup>th</sup> Day of Coverage. The examiners found overcharges totaling \$6.00 and undercharges totaling \$981.00 during the review of these files. The net amount that should be refunded to insureds is \$6.00 plus six percent (6%) simple interest.

- (1) The examiners found 16 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the return premium correctly.
- (2) The examiners found one violation of § 38.2-2212 F of the Code of Virginia. The company failed to obtain a written request from the insured to cancel his policy.
- (3) The examiners found 13 occurrences where the company failed to comply with the provisions of the insurance policy.
  - a. In five instances, the company failed to honor the date of cancellation requested by the insured.
  - b. In eight instances, the company failed to obtain advanced written notice of a request to cancel from the insured.

**Other Law Violations**

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

The examiners found two violations of § 46.2-482 of the Code of Virginia. The company failed to file an SR-26 with the Department of Motor Vehicles within 15 days after canceling the policy as required by the Virginia Motor Vehicle Code.

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

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

- (1) The examiners found one violation of § 38.2-2208 B of the Code of Virginia. The company failed to provide proper notice of nonrenewal to the lienholder.
- (2) The examiners found one violation of § 38.2-2212 E of the Code of Virginia. The company failed to provide a notice of nonrenewal to the insured.

**CLAIMS REVIEW****Private Passenger Automobile Claims**

The examiners reviewed 87 automobile claims for the period of January 1, 2009 through December 31, 2009. The findings below appear to be contrary to the standards set forth by Virginia insurance statutes and regulations. The examiners found overpayments totaling \$2,589.40 and underpayments totaling \$14,682.89 during the review of these files. The net amount that should be paid to claimants is \$14,656.65 plus six percent (6%) simple interest.

- (1) The examiners found 16 violations of 14 VAC 5-400-30. The company failed to document the claim file sufficiently to reconstruct events and/or dates that were pertinent to the claim.

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

- (2) The examiners found 28 violations of 14 VAC 5-400-40 A. The company obscured or concealed from a first party claimant, directly or by omission, benefits, coverages, or other provisions of an insurance contract that were pertinent to the claim.
- a. In one instance, the company failed to inform an insured of his Physical Damage deductible when the file indicated the coverage was applicable to the loss.
  - b. In five instances, the company failed to inform an insured of his Medical Expense Benefits coverage when the file indicated the coverage was applicable to the loss.
  - c. In nine instances, the company failed to inform an insured of his Transportation Expenses coverage when the file indicated the coverage was applicable to the loss.
  - d. In 13 instances, the company failed to inform an insured of the benefits or coverages, including rental benefits, available under the Uninsured Motorist Property Damage coverage (UMPD) and/or Underinsured Motorist coverage (UIM).

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

- (3) The examiners found 16 violations of 14 VAC 5-400-50 C. The company failed to make an appropriate reply within 10 working days to pertinent communications from a claimant, or a claimant's authorized representative, that reasonably suggested a response was expected.

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

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

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

- (6) The examiners found 12 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 one instance, the company failed to pay the insured's UMPD claim properly when collision and/or UMPD coverages applied to the claim.
  - b. In one instance, the company failed to pay the claim in accordance with the policy provisions under the insured's Uninsured Motorist coverage.
  - c. In two instances, the company failed to pay the proper sales and use tax, title fee, and license fee on a first party total loss settlement.
  - d. In three instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Medical Expense Benefits coverage.

- e. In five 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.

- (7) The examiners found nine 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 eight instances, the company failed to provide a copy of the estimate to the insured.
  - b. In one instance, the company failed to provide a copy of the estimate to the claimant.

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

- (8) The examiners found one violation of 14 VAC 5-400-80 E. The company failed to document the reduction in the value of the vehicle because of betterment or depreciation in evaluating a total loss.
- (9) The examiners found one violation of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of an insurance policy. The company informed the insured that there would be no coverage for future water losses to the insured vehicle.
- (10) The examiners found seven violations of § 38.2-510 A 1 of the Code of Virginia. The company misrepresented pertinent facts or insurance policy provisions relating to coverages at issue.

- a. In six instances, the company failed to properly convey to the insured, in a Reservation of Rights letter, coverage as it relates to an unlisted driver.
- b. In one instance, the company failed to properly convey to the insured and/or the claimant the company's obligation concerning payment of the rental or loss of use claim.

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

- (11) The examiners found 25 violations of § 38.2-510 A 3 of the Code of Virginia. The company failed to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

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

- (12) The examiners found one violation of § 38.2-510 A 4 of the Code of Virginia. The company refused arbitrarily and unreasonably to pay a third party property damage claim.

- (13) The examiners found five violations of § 38.2-510 A 6 of the Code of Virginia. The company failed to attempt, in good faith, to make prompt, fair, and equitable settlement of a claim in which liability was reasonably clear.

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

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

- (15) The examiners found two violations of § 38.2-510 A 14 of the Code of Virginia. The company failed to provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for the denial of a claim or offer of a compromise settlement.
- (16) The examiners found one violation of § 38.2-510 C of the Code of Virginia. The company failed to disclose to the vehicle owner either on the estimate of repairs or in a separate document, the required aftermarket parts notice.
- (17) The examiners found two violations of § 38.2-2201 B of the Code of Virginia. The company failed to obtain a statement from an insured to make payments directly to the medical provider.
- (18) The examiners found five occurrences where the company failed to comply with the provisions of the insurance contract.
- a. In one instance, the company waived the UMPD deductible when the claimant was not identified.
  - b. In one instance, the company paid the insured's towing and storage charges when the insured vehicle did not carry Collision coverage.
  - c. In two instances, the company failed to properly pay the insured's total loss settlement.
  - d. In one instance, the company paid the entire physical damage claim under the excess UMPD coverage when the primary Collision Coverage was available.

**Other Law Violations**

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

The examiners found 23 violations of § 52-40 of the Code of Virginia. The company failed to include the statement regarding insurance fraud on claim forms required by the company as a condition of payment.

### **REVIEW OF FORMS**

The examiners reviewed the companies' 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 companies' compliance with Virginia insurance statutes and regulations.

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

### **Automobile Policy Forms**

#### **POLICY FORMS USED DURING THE EXAMINATION PERIOD**

The company provided copies of 19 forms that were used during the examination period to provide coverage on policies insuring risks located in Virginia.

The examiners found six violations of § 38.2-2220 of the Code of Virginia. The company failed to have available for use mandatory standard forms. The company was unable to provide PP 02 01 01 05, Suspension of Insurance, PP 02 02 08 86, Reinstatement of Insurance and PP 13 55 06 00, Towing and Labor Costs Coverage-Virginia for review.

OTHER FORMS USED DURING THE EXAMINATION PERIOD

The examiners found no additional forms to review.

REVIEW OF THE POLICY ISSUANCE PROCESS

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

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

**Automobile Policies**

The companies provided five new business policies mailed on the following dates: March 29, 30, 31 and April 1, 2010. In addition, the companies provided 10 renewal business policies mailed on the following dates: January 31 and February 2, 4, 9, 11, 16 and 24, 2010.

NEW BUSINESS POLICIES

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

- a. In one instance, the company failed to list form PP 13 55 06 00, Towing and Labor Costs-Virginia, on the declarations page.

- b. In five instances, the company listed forms PP 13 59 01 05, Single Liability Limit, PP 04 83 01 05, Single Uninsured Motorists Limit and PP 03 05 08 86, Loss Payable Clause, on the declarations page when these forms were not applicable to the policy.

#### RENEWAL BUSINESS POLICIES

The examiners found 17 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 the statute.

- a. In seven instances, the company failed to list form PP 13 55 06 00, Towing and Labor Costs-Virginia, on the declarations page.
- b. In ten instances, the company listed forms PP 03 26 06 00, this form has not been approved for use in Virginia, PP 13 59 01 05. In addition the company listed, Single Liability Limit, PP 04 83 01 05, Single Uninsured Motorists Limit and PP 03 05 08 86, Loss Payable Clause, on the declarations page when these forms were not applicable to the policy.

#### REVIEW OF STATUTORY NOTICES

To obtain sample policies to review the content of the statutory notices that the companies are required to provide to insureds and used by the companies for the lines examined, the examiners used the same new business policy and renewal business policy mailings that were previously described. The details of these policies have been set forth previously under the Review of the Policy Issuance Process section of the Report. The examiners verified that the notices used by the companies on all applications, on all policies and those special notices used for vehicle and property policies issued on risks located in Virginia complied with the Code of Virginia.

**General Statutory Notices**

- (1) The examiners found two violations where the company failed to comply with § 38.2-305 B of the Code of Virginia. The company's Important Information Regarding Your Insurance notice did not contain all of the information required by this statute.
- (2) The examiners found one violation of § 38.2-604 B of the Code of Virginia. The company's long form Notice of Information Collection and Disclosure Practices did not contain all of the information required by this statute.
- (3) The examiners found two violations of § 38.2-610 A of the Code of Virginia. The company failed to have an AUD notice containing substantially similar language as that of the prototype set forth in Administrative Letter 1981-16.

**Statutory Vehicle Notices**

- (1) The examiners found one violation of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of an insurance policy. The company failed to correctly represent coverages provided under PP 13 52 01 04, Transportation Expenses Coverage-Virginia.
- (2) The examiners found two violations of § 38.2-1905 A of the Code of Virginia. The company failed to include in its Point Surcharge notice that the insured could appeal to the Commissioner of Insurance, within 60 days of the notice, the company's decision to surcharge the policy because of a motor vehicle accident.
- (3) The examiners found two violations of § 38.2-2202 A of the Code of Virginia. The company failed to provide the Medical Expense Benefits notice in the precise wording and in boldface type as required by the Code of Virginia.

- (4) The examiners found two violations of § 38.2-2202 B of the Code of Virginia. The company failed to provide the rejection of higher uninsured motorist limits in the precise language and in boldface type as required by the Code of Virginia.
- (5) The examiners found one violation of § 38.2-2234 of the Code of Virginia. The company failed to include all of the information required by the statute in its Credit Score Disclosure notice.

### **Other Notices**

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

The examiners found four violations of § 38.2-517 A 3 of the Code of Virginia.

The company's glass claims procedure did not properly disclose the use of a Third Party Administrator.

### **LICENSING AND APPOINTMENT REVIEW**

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

### **Agent**

The examiners found 11 violations of § 38.2-1833 of the Code of Virginia. The company failed to appoint an agent within 30 days of the date of application.

### **Agency**

The examiners found five violations of § 38.2-1812 of the Code of Virginia. The company failed to appoint an agency within 30 days of the date of application.

**REVIEW OF THE COMPLAINT-HANDLING PROCESS**

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

The examiners found no violations in this area.

**REVIEW OF PRIVACY AND INFORMATION SECURITY PROCEDURES**

The Bureau requested a copy of the companies' information security program that protects the privacy of policyholder information. The companies submitted their security information as required by § 38.2-613 of the Code of Virginia.

The company provided their information security procedures.

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

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

### **General**

Bristol West Casualty Insurance Company, and  
Bristol West Insurance Company shall:

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

### **Rating and Underwriting Review**

Bristol West Casualty Insurance Company, and  
Bristol West Insurance Company shall:

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

companies acknowledge that they have refunded or credited the overcharges listed in the file.

- (4) Specify the required information in the policy and/or the declarations page.
- (5) State the correct limit of coverages on the declarations page.
- (6) Use rules and rates on file with the Bureau. Particular attention should be focused on the use of filed discounts, surcharges, points under a safe driver insurance plan, symbols, driver classification factors, tier eligibility, and correct base and/or files.
- (7) Conduct an internal audit of all policies between July 26, 2008 and July 26, 2010, to determine if any UM losses were treated as at fault accidents and surcharges were applied in the subsequent policy periods. The companies should report their findings to the Bureau and make restitution to insureds as applicable.

#### **Termination Review**

Bristol West Casualty Insurance Company, and  
Bristol West Insurance Company shall:

- (1) Correct the errors that caused the overcharges and undercharges and send refunds to the insureds or credit the insureds' accounts the amount of the overcharge as the date the error first occurred.
- (2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insureds' accounts.
- (3) Complete and submit to the Bureau, the enclosed file titled "Termination Overcharges Cited during the Examination." By returning the completed file to the Bureau, the company acknowledge that they have refunded or credited the overcharges listed in the file.
- (4) Calculate earned premium according to its filed rules.
- (5) Honor the date of cancellation requested by the insured.

- (6) Obtain advance written notice when the insured requests cancellation of the policy.

### **Claims Review**

Bristol West Casualty Insurance Company, and  
Bristol West Insurance Company shall:

- (1) Correct the errors that caused the underpayments and overpayments and send the amount of the underpayment to insureds and claimants.
- (2) Include six percent (6%) simple interest in the amount paid to the insureds and claimants.
- (3) Complete and submit to the Bureau, the enclosed file titled "Claims Underpayments Cited during the Examination." By returning the completed file to the Bureau, the companies acknowledge that they have paid the underpayments listed in the file.
- (4) Properly document claim files so that all events and dates pertinent to the claim can be reconstructed.
- (5) Document the claim file that all applicable coverages have been discussed with the insured. Particular emphasis should be given to rental benefits available under UMPD, Transportation Expense coverage, and Medical Expense Benefits coverage.
- (6) Acknowledge correspondence that reasonably suggests a reply is expected from insureds and claimants within 10 business days.
- (7) Make all claim denials in writing and keep a copy in the claim file.
- (8) Offer the insured an amount that is fair and reasonable as shown by the investigation of the claim and pay the claim in accordance with the insured's policy provisions.

- (9) Provide copies of repair estimates prepared by or on behalf of the company to insureds and claimants.
- (10) Implement reasonable standards to avoid misrepresentation of pertinent facts or insurance policy provisions relating to coverages at issue.
- (11) Adopt and implement reasonable standards for prompt investigation of claims.
- (12) Include a correct statement of coverage under which payments are made with all claim payments made to insureds.

### **Forms Review**

Bristol West Casualty Insurance Company, and  
Bristol West Insurance Company shall:

The companies should include PP 02 01 01 05, Suspension of Insurance, PP 02 02 08 86, Reinstatement of Insurance, and PP 13 55 06 00, Towing and Labor Costs Coverage-Virginia in their forms library.

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

Bristol West Casualty Insurance Company, and  
Bristol West Insurance Company shall:

Specify the required information in the policy by listing all applicable forms on the declarations page.

### **Review of Statutory Notices**

Bristol West Casualty Insurance Company, and  
Bristol West Insurance Company shall:

- (1) Amend the Important Information Regarding Your Insurance notice to comply with § 38.2-305 B of the Code of Virginia.
- (2) Amend the glass script to comply with § 38.2-517 A 3 of the Code of Virginia.

- (3) Amend the Information Collection and Disclosure Practices notice to comply with § 38.2-604 B of the Code of Virginia.
- (4) Develop an AUD notice that complies with § 38.2-610 A of the Code of Virginia.
- (5) Amend the Accident Point Surcharge notice to comply with § 38.2-1905 A of the Code of Virginia.
- (6) Develop an Optional Medical Expense Benefits Coverage notice that complies with § 38.2-2202 A of the Code of Virginia.
- (7) Develop an Optional Uninsured Motorist Coverage notice that complies with § 38.2-2202 B of the Code of Virginia.
- (8) Amend the private passenger automobile Credit Score Disclosure notice to comply with § 38.2-2234 A 1 of the Code of Virginia.

### **Licensing and Appointment Review**

Bristol West Casualty Insurance Company, and  
Bristol West Insurance Company shall:

Appoint agents and agencies within 30 days of the date of application.

### **PART THREE – EXAMINERS’ NOTES**

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

### **Rating and Underwriting**

- Failure to assign points under a SDIP to the vehicle customarily driven by the operator responsible for incurring the points.

**RECOMMENDATIONS**

We recommend that the companies take the following actions:

**Rating and Underwriting**

- The companies should advise their agencies/agents to be consistent when completing the Direct Debit/EFT Authorization Agreement.
- The companies should amend the insured's insurance identification card to reflect the correct corresponding VIN number for each vehicle.
- The companies should verify that the date of birth on the declarations page corresponds with the date shown on the MVR.
- The companies should only list accidents/violations on the Accident and Violation Disclosure notice that are within the experience period of the policy.

**Termination**

- The companies should not provide the Right to Review on cancellations within the first 60 days of coverage and for insured requested cancellations on private passenger automobile policies.

**Claims**

- The companies should use the policy term "Collision" instead of "Material Damage."
- The companies should use the policy term "Medical Expense" instead of "Medical Payments."
- The companies should use the policy term "Other Than Collision" instead of "Comprehensive."
- The companies should use the policy term "Transportation Expense" instead of "Extended Transportation."
- The companies should code the claim payment with the correct coverage when issued to the insured.
- The companies should address written correspondences to the appropriate parties.

- The companies should remove references to the FAP policy on the checklist used by the adjusters.
- The companies should follow the claim guidelines when issuing first party payments directly to the repair facility.
- The companies should verify that written correspondences have the correct company referenced in the letterhead.

### **Forms**

- The companies should correct the formatting error in PP 05 96 01 05, Medical Expense and Income Loss Benefits Coverage-Virginia.

### **Statutory Notices**

- The companies should amend the Important Information Regarding Your Insurance notice to include the TDD telephone number for the Virginia Bureau of Insurance.
- The companies should use the term "Other Than Collision" instead of "Comprehensive" on the Rental Reimbursement notice.

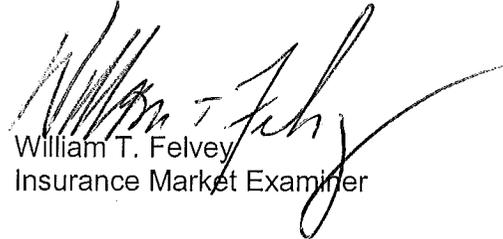
### **SUMMARY OF PREVIOUS EXAMINATION FINDINGS**

The Bureau conducted a prior market conduct examination of Bristol West Insurance Company's private passenger automobile lines of business as of June 30, 2005. During the examination, Bristol West Insurance Company violated §§ 38.2-305 B, 38.2-510 A 10, 38.2-610 A, 38.2-1812, 38.2-1833, 38.2-1905 A, 38.2-1906 D, 38.2-2214, and 38.2-2220 of the Code of Virginia, as well as 14 VAC 5-400-40 A, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D.

**ACKNOWLEDGEMENT**

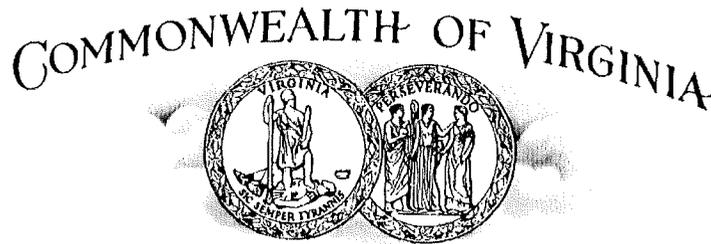
The courteous cooperation extended by the officers and employees of the companies during the course of the examination is gratefully acknowledged.

Sincerely,



William T. Felvey  
Insurance Market Examiner

ALFRED W. GROSS  
COMMISSIONER OF INSURANCE  
STATE CORPORATION COMMISSION  
BUREAU OF INSURANCE



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

December 17, 2010

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

Christina Austin  
Director – Compliance  
Bristol West Insurance Group  
5990 West Creek Road  
Independence, OH 44131

Re: Market Conduct Examination  
Bristol West Insurance Company (NAIC# 19658)  
Bristol West Casualty Insurance Company (NAIC# 11034)  
Examination Period: January 1, 2009 – December 31, 2009

Dear Ms. Austin:

:

The Bureau of Insurance (Bureau) has conducted a market conduct examination of the above referenced companies for the period of January 1, 2009 through December 31, 2009. The Preliminary Market Conduct Examination Report has been drafted for the companies' review.

Enclosed with this letter is a copy of the Preliminary Market Conduct Examination Report (Report) and copies of review sheets that have been withdrawn or revised since November 15, 2010. Also enclosed 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 companies, I would urge you to closely review the Report. Please provide a written response. If the companies disagree with an item(s) or wish to further comment on an item(s), please respond to the items in Part I of the Report using the format of the Report. The companies do not need to respond to any particular item in Part I if it agrees with the Report. Please be aware that the examiners are unable to remove an item from the Report or modify a violation unless the companies provide written documentation to support its position. If the companies use the same format (headings and numbering) as found in the Report, it is much easier to follow the companies' points.

Secondly, the companies should respond to the corrective action plan (CAP) outlined in Part II of the Report. In some cases, the issues that should be addressed may be broader than those that are in the CAP. In particular, if the examiners identified issues that were numerous but did not rise to the level of a business practice, the companies should outline the actions they are taking to prevent those issues from becoming a business practice.

Thirdly, if the companies have comments they wish to make regarding the Examiners' Notes in Part III of the Report, please use the same headings and numbering for the comments. Of course, should the companies wish to comment on any other part of the Report, please reference the heading of the section where the item is found.

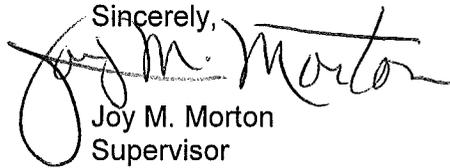
Finally, we have enclosed a CD containing an Excel spreadsheet that the companies must complete and return to the Bureau with the companies' response. This spreadsheet lists the files in which the examiners identified overcharges (rating and terminations) and underpayments (claims).

The companies' response and the spreadsheet mentioned above must be returned to the Bureau by January 26, 2011.

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

We look forward to your reply by January 26, 2011.

Sincerely,



Joy M. Morton  
Supervisor  
Market Conduct Section  
Property & Casualty Division  
(804) 371-9731  
[joy.morton@scc.virginia.gov](mailto:joy.morton@scc.virginia.gov)

JMM  
Enclosure

## Joy Morton

---

**From:** Joy Morton  
**Sent:** Thursday, January 20, 2011 1:44 PM  
**To:** 'christina.austin@farmersinsurance.com'; William Felvey  
**Subject:** RE: Bristol West - One Question re: Restitution Worksheet

Christina:

The overcharge for RPA056 should not have been included in the grid. In addition, there was an undercharge for RPA058 not an overcharge. Please reference this email in your response and the overcharge for RPA056 will be removed from the report.

JOY

-----Original Message-----

**From:** [christina.austin@farmersinsurance.com](mailto:christina.austin@farmersinsurance.com) [<mailto:christina.austin@farmersinsurance.com>]  
**Sent:** Thursday, January 20, 2011 1:21 PM  
**To:** William Felvey  
**Cc:** Joy Morton  
**Subject:** Bristol West - One Question re: Restitution Worksheet

Will,

Thanks for sending the review sheets. I have one more question regarding the last record on the Rating Overcharges worksheet. (See highlighted row on attachment.) The reference number listed is RPA0056. I am unable to locate the review sheet associated with this on the Violation Summary report. However, there is a review sheet for RPA0058 which appears to be an overcharge (R&URBPPA-890127050). Can you confirm if the correct reference number is RPA058? If not, can you forward me the review sheet for RPA056 that gives the details about the overcharge?

If this doesn't make sense, feel free to give me a call.

Tina Austin  
Compliance Director  
Farmer's Insurance Group  
Independence, OH 44131  
216-446-4501

(See attached file: Bristol Restitution 12.15.10.xls)

\*\*\*\*\* PLEASE NOTE \*\*\*\*\* This E-Mail/telefax message and any documents accompanying this transmission may contain privileged and/or confidential information and is intended solely for the addressee(s) named above. If you are not the intended addressee/recipient, you are hereby notified that any use of, disclosure, copying, distribution, or reliance on the contents of this E-Mail/telefax information is strictly prohibited and may result in legal action against you. Please reply to the sender advising of the error in transmission and immediately delete/destroy the message and any accompanying documents. Thank you.\*\*\*\*\*



Apex Adjustment Bureau, Inc.  
Bayview Adjustment Bureau, Inc.  
Bristol West Casualty Insurance Company  
Bristol West Insurance Company

Bristol West Insurance Services of California, Inc.  
Bristol West Insurance Services, Inc. of Florida  
Bristol West Insurance Services of Nevada, Inc.  
Bristol West Insurance Services of Texas, Inc.  
Coast National Holding Company

Coast National Insurance Company  
Insurance Data Systems, G.P.  
Coast National General Agency, Inc.  
Security National Insurance Company

February 3, 2011

Joy M. Morton  
Supervisor – Market Conduct Section  
Commonwealth of Virginia  
Bureau of Insurance  
1300 E. Main Street, 5<sup>th</sup> Floor  
Richmond, VA 23219

Re: **Market Conduct Examination**  
**Bristol West Insurance Company (NAIC #19658)**  
**Bristol West Casualty Insurance Company (NAIC #11034)**  
**Examination Period: January 1, 2009 – December 31, 2009**

Dear Ms. Morton:

This letter is in response to the Preliminary Market Conduct Examination Report dated December 17, 2010. As requested, the companies' comments will appear in the same order as in the Report. If no comment appears for a given section of the report, then the companies agree with the Bureau's finding.

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

### Rating and Underwriting Review **Automobile New Business Policies**

#### Introduction – New business overcharges:

RPA007 – The Company respectfully submits that the policy rated correctly. See Addendum 1 for the rating worksheet and a copy of the application.

RPA013 – The Company respectfully submits that the policy rated correctly. See Addendum 2 for the rating worksheet and a copy of the application.

#### Section (3)a:

Issue - Failure to use correct discounts/surcharges. RPA013, review sheet R&UNBPPA1286897418. The Company respectfully submits that the policy rated correctly. See Addendum 2 for the rating worksheet and a copy of the application.



Issue – Failure to use correct discounts/surcharges. RPA017, review sheet R&UNBPPA-2126730267. The Company respectfully submits that the policy rated correctly. See Addendum 3 for the rating worksheet and a copy of the application.

Section (3)b:

Issue – Failure to use the correct symbol. RPA014, review sheet R&UNBPPA1530027683. The Company respectfully submits that the policy rated correctly. The symbols were correctly assigned to each vehicle. However, the VIN numbers for the two vehicles are swapped. This is a print issue only. See Addendum 4 for the rating worksheet and a copy of the application.

Section (3)d:

Issue – Failure to use correct base and/or final rates. RPA007, review sheet R&UNBPPA-287985354. The Company respectfully submits that the policy rated correctly. See Addendum 1 for the rating worksheet and a copy of the application.

**Automobile Renewal Business Policies**

Introduction – Renewal Business Overcharges:

RPA021 - The Company respectfully submits that the policy rated correctly. However, the company cannot locate either a rebuttal or a withdrawal from the Bureau. See Addendum 5 for a copy of our original response for your review.

RPA029 - The Company respectfully submits that the policy rated correctly. See Addendum 6 for the rating worksheet and a copy of the renewal declarations page.

RPA034 – The Company respectfully disagrees that it incorrectly interpreted the CLUE report by charging for the 2/19/2008 at-fault accident. First, the company that reported the incident (Victoria Fire and Casualty) did not indicate whether the accident was at-fault (refer to the blank AFI indicator on the report.) Second, there was a \$281.00 payout under collision (which is an indicator of fault.) Third, Bristol West provides all applicants with the opportunity to both self-report and dispute any incident found on a third party report. In this case, the applicant reported this incident as an at-fault occurrence to his agent. In addition, the applicant did not dispute Bristol West's action based on the data from the CLUE report. See Addendum 16 for a copy of the CLUE report and a screen print of the Company's accident/violation screen showing that the at-fault accident was reported by the applicant.

RPA056 – Per Joy Morton, this policy was mistakenly added to the restitution report. Please refer to the January 20, 2011 email from Joy titled “Bristol West – One Question re: Restitution Worksheet.”

Section (4)a:



Issue – Failure to use correct core discount/surcharge. RPA021, review sheet R&URBPPA781385156. The Company respectfully submits that the policy rated correctly. However, the Company cannot locate either a rebuttal or a withdrawal from the Bureau. See Addendum 5 for a copy of our original response for your review.

Issue – Failure to use correct core discount/surcharge. RPA024, review sheet R&URBPPA-204623026. The Company respectfully submits that the policy rated correctly. However, the Company cannot locate either a rebuttal or a withdrawal from the Bureau. See Addendum 7 for a copy of our original response for your review.

Issue – Failure to use correct rate matrix factor. RPA026, review sheet R&URBPPA-1742041446. The Company respectfully submits that the policy rated correctly. However, the Company cannot locate either a rebuttal or a withdrawal from the Bureau. See Addendum 8 for a copy of our original response for your review.

Issue - Failure to use correct core discount/surcharge. RPA029, review sheet R&URBPPA966281460. The Company respectfully submits that the policy rated correctly. See Addendum 6 for the rating worksheet and a copy of the renewal declarations page.

Issue - Failure to use correct core discount/surcharge & failure to apply correct SR22 surcharge. RPA032, review sheet R&URBPPA2080022782. The Company respectfully submits that the policy rated correctly. However, the Company cannot locate either a rebuttal or a withdrawal from the Bureau. See Addendum 9 for a copy of our original response for your review.

Section (4)b:

Issue – Failure to apply the correct point assignment to driver #2. RPA029, review sheet R&URBPPA 914874267. The Company respectfully submits that the policy rated correctly. See Addendum 6 for the rating worksheet and a copy of the renewal declarations page.

Issue – Company charged an at-fault accident for a UM claim. RPA034, review sheet R&URBPPA1544331799. The Company respectfully disagrees that it incorrectly interpreted the CLUE report by charging for the 2/19/2008 at-fault accident. First, the company that reported the incident (Victoria Fire and Casualty) did not indicate whether the accident was at-fault (refer to the blank AFI indicator on the report.) Second, there was a \$281.00 payout under collision (which is an indicator of fault.) Third, Bristol West provides all applicants with the opportunity to both self-report and dispute any incident found on a third party report. In this case, the applicant reported this incident as an at-fault occurrence to his agent. In addition, the applicant did not dispute Bristol West's action based on the data from the CLUE report. See Addendum 16 for a copy of the CLUE report and a screen print of the Company's accident/violation screen showing that the at-fault accident was reported by the applicant.

Section (4)d:



Issue - Failure to use the correct driver classification factor (did not use NAF accident from MVR.) RPA039, review sheet R&URBPPA-1078364284. The Company respectfully submits that the policy rated correctly. However, the Company cannot locate either a rebuttal or a withdrawal from the Bureau. See Addendum 10 for a copy of our original response for your review.

Termination Review

**All Other Cancellations – Automobile Policies**

**Nonpayment of the Premium**

Section (1):

Issue - Incorrectly calculated return premium (undercharge.) TPA035, review sheet TermNPPPA1726784692. The Company respectfully submits that the return premium was calculated correctly. As the examiner noted, the earned premium was \$182 (plus a \$25 non-sufficient funds fee) for a total of \$207. The insured paid \$134.22 and was billed for the remaining \$71.78. This balance was submitted to collections and eventually written-off. See Addendum 11 for a screen shot of the accounting breakdown.

Issue - Incorrectly calculated return premium (undercharge.) TPA050, review sheet TermNPPPA1166747724. The Company respectfully submits that the return premium was calculated correctly. However, the Company cannot locate either a rebuttal or a withdrawal from the Bureau. See Addendum 12 for a copy of our original response for your review.

Sections (3)a & (3)b:

Issue - Failure to mail the nonpay cancellation notice 15 days prior to the cancellation date and Failure to include the "right to review" on a cancellation notice. TPA011, review sheets TermNPPPA-664815881 and TermNPppa-1231361950. The Company respectfully continues to disagree with the Bureau's finding. The notice reviewed was a "courtesy" notice sent in order to inform the insured of the updated earned premium. The transaction under review was an exception process to delete a vehicle post-cancellation. The act of reinstating and cancelling are internal processes in order to delete the vehicle. It is in no way intended to imply that coverage has been reinstated or re-canceled. Rather it is a process to update the earned premium. The original non-pay cancellation notice issued on 12/09/2009 with the proper days notice and the "right to review." Please refer to the Company's original responses to these review sheets.

Termination Review

**All Other Cancellations – Automobile Policies**

**Requested by the Insured**

Introduction – Termination Overcharges:

TPA077 – The Company respectfully submits that there was not an overcharge on this policy. We agree that the policy was cancelled pro-rate instead of short-rate. However, there is not an



overcharge because the total premium was \$339 + \$53 (endorsement effective 7/30/2009.) The total term premium is therefore \$392. See Addendum 13 for a cancellation breakdown and screen print showing the endorsement.

**PART TWO – CORRECTIVE ACTION PLAN**

**Rating and Underwriting Review**

Sections (1), (2), and (3):

See Addendum 14 for the restitution worksheet. As noted in Part One above, refunds on the following policies have not been processed because the company submits that it correctly calculated the rates.

- RPA007
- RPA013
- RPA021
- RPA029
- RPA034
- RPA0056

Section (4):

The CAP will be addressed as part of a rate revision scheduled for mid-May 2011. A complete filing for Bristol West Insurance Company and Bristol West Casualty Insurance Company will be submitted to the Bureau in February 2011. The CAP for this section is as follows:

Cite	Issue	Remediation
38.2-305A/1	Typo incorrectly identifies endorsement PP 03 27 06 00 as PP 03 26 06 00 on the Dec page (multiple review sheets)	Correctly prints PP 03 27 06 00 on new business and renewal declarations pages for Bristol West Casualty Insurance Company. Needs to be corrected for Bristol West Insurance Company.
38.2-305 A/3	Towing and Labor Costs endorsement not listed on the Dec page (multiple review sheets)	*Add Towing Form # PP 13 55 06 00 to our policy contract. *Print Form #PP 13 55 06 00 on Dec Pages when purchased. *File Form # PP 13 55 06 00 with BOI.
38.2-305 A/5	Single Limit Liability and Single Uninsured Motorist Liability coverage, and Loss Payable clause listed on Dec but not applicable to policy (multiple review sheets)	*Remove Single Limit from Policy Contract. *Remove Single Limit Liability from Dec Page. *Remove Single Limit Liability from Forms Filing list. *Incorporate Loss Payee clause into Part D.

Section (5):



The CAP will be addressed as part of a rate revision scheduled for mid-May 2011. A complete filing for Bristol West Insurance Company and Bristol West Casualty Insurance Company will be submitted to the Bureau in February 2011. The CAP for this section is as follows:

Cite	Issue	Remediation
38.2-502 1/1	Transportation Expense Coverage (PP 13 52 01 04) improperly showing daily limit on Dec page (multiple review sheets)	*Correct Dec page for Rental coverage amount and limit. *Correct Application page for Rental coverage amount and limit. *Correct Point-of-Sale page for Rental coverage amount and limit. *Review pricing for Rental coverage.
38.2-502 1/1	Towing and Labor Coverage (PP 13 55 06 00) improperly showing daily limit on Dec page (multiple review sheets)	*Correct Dec page for Towing coverage amount and limit. *Correct Application page for Towing coverage amount and limit. *Correct POS page for Towing coverage amount and limit. *Review pricing for Towing coverage.

Section (6):

The CAP will be addressed as part of a rate revision scheduled for mid-May 2011. A complete filing for Bristol West Insurance Company and Bristol West Casualty Insurance Company will be submitted to the Bureau in February 2011. The CAP for this section is as follows:

Cite	Issue	Remediation
38.2-1906 D/01	Rate/Rules filed for Speeding violation points show SPL and SPH as separate violations even though we use them as the same in rating (861069529)	Footnote about combining SPH and SPL offenses needs to be added to filing. Current filing implies SPH and SPL offenses would be counted separately.
38.2-1906 D/01	Proof of homeownership derived from credit report. This methodology is not in Company's filing (-1814078789) & (1291480437)	Revise rule P20 (proof of home ownership) to include "mortgage present" indicator on credit report.
38.2-1906 D/01	Overcharge on RPA010 (-1705560073) re: pay plan surcharge	The rule number for the pay plan surcharge is B06, we incorrectly reference B02 in the rate filing. Need to refile this rate page.
38.2-1906 D/05	Failure to use the correct tier eligibility criteria (multiple review sheets)	Refile Market Tier Exhibit (This was typographical error in the filing exhibit. Columns from a previous exhibit inadvertently overwrote the market tier labels.)
38.2-1906 D/39	Company is not enforcing filed rule, UDR's are required to pay premium in full (1956079346)	Rule did not fire and down payment was accepted. Will fix programming as part of the rate revision.
38.2-502 1/1 and 38.2-1906 D/01	The company failed to apply the Inexperienced Operator Surcharge (multiple review sheets)	Will fix programming as part of the rate revision.
38.2-1905 C/1	Issue - Assigned violation points to incorrect driver (-890127050)	Will fix programming as part of the rate revision.
38.2-1906 D/02	The company incorrectly charged violation	Will fix programming as part of the rate



	points for multiple accidents on the same day (-1465519602)	revision.
38.2-1906 D/02	The company incorrectly applied a violation of improper driving conviction (618935999)	Incorrect SCV code mapping of "Improper Driving" violation to a major. Mapping fixed on 11/24/2009.
38.2-1906 D/02	The company failed to change for an at-fault accident for driver #3 (1500551315)	Although this is an isolated occurrence, the process in which accidents at renewal are reviewed will be analyzed as part of the rate revision.

Section (7):

Please refer to the Company's response, above, in the Automobile Renewal Business Policies section of the Examiners' Observations. The Company respectfully submits that it properly charged for the at-fault accident.

**Termination Review**

Sections (1), (2), and (3):

See Addendum 15 for the restitution worksheet. As noted in Part One above, refunds on the following policies have not been processed because the company submits that it correctly calculated the earned premium.

TPA077

Section (4):

The company will update underwriting/policy processing guidelines and publish them to the Virginia policy services department.

Cite	Issue	Remediation
38.2-1906 D/34	Processed insured's request to cancel as pro-rate instead of short-rate, as filed (multiple review sheets)	Revise training procedures and distribute to policy services department.

Section (5):

The CAP will be addressed as part of a rate revision scheduled for mid-May 2011. A complete filing for Bristol West Insurance Company and Bristol West Casualty Insurance Company will be submitted to the Bureau in February 2011. The CAP for this section is as follows:

Cite	Issue	Remediation
38.2-2208 B-1/05	Failure to send proof of cancellation to lien holder (-51860801)	This appears to be an isolated incident; however, it will be investigated as part of the May 2011 rate revision.
46.2-482/1	Failure to send SR26 within 15 days of	This appears to be an isolated incident. Both



	cancellation (415729735 & -1370950018)	SR26s were sent on day 16 instead of day 15; however, it will be investigated as part of the May 2011 rate revision.
38.2-2208 B 1/12	Failure to send proof of non-renewal to lien holder (1570972235)	This appears to be an isolated incident; however, it will be investigated as part of the May 2011 rate revision.
38.2-2212 E/2	Failure to send proof of non-renewal to policy holder (-1240498634)	This appears to be an isolated incident; however, it will be investigated as part of the May 2011 rate revision.

Section (6):

The company will update underwriting/policy processing guidelines and publish them to the Virginia policy services department.

Cite	Issue	Remediation
38.2-2212 E 2/1	Failure to mail the underwriting cancel notice 45 days prior to the cancellation date (1956251426)	Revise training procedures and distribute to policy services department.

*Please note, Section (7) is missing from p. 27 of the Bureau's letter.*

Section (8):

The company does not believe it has an issue with sending non-payment of premium notices within the prescribed time limit. Please refer to our response, above, to:

Termination Review

All Other Cancellations – Automobile Policies  
 Nonpayment of the Premium  
 Sections (3)a & (3)b

*Please note, Section (9) is missing from p. 27 of the Bureau's letter.*

Section (10):

The company will update underwriting/policy processing guidelines and publish them to the Virginia policy services department. In addition, an updated rules filing will be submitted as part of the May 2011 rate revision.

Cite	Issue	Remediation
38.2-2212 F 2/1	Cancelation of Policy after a Total Loss - cannot cancel day after total loss (1474753275)	Update rules filing to specify that cancellations cannot be backdated in the event of a total loss. Revise training procedures and distribute to policy services department.
Policy Provisions/5	Failure to cancel on the requested date and/or acknowledge no binding on insured's	Revise training procedures and distribute to policy services department.



	request to cancel (multiple review sheets)	
--	--	--

Section (11):

The CAP will be addressed as part of a rate revision scheduled for mid-May 2011. A complete filing for Bristol West Insurance Company and Bristol West Casualty Insurance Company will be submitted to the Bureau in February 2011. The CAP for this section is as follows:

Cite	Issue	Remediation
Policy Provisions/9	Failure to obtain advanced notice of cancellation from the insured (cannot backdate cancellation due to duplicate coverage) (multiple review sheets)	Refile Rule/Contract to allow for backdating. In the meantime, revise training procedures and distribute to policy services department..

**Claims Review**

Sections (1), (2), and (3):

See Addendum 17 for the restitution worksheet.

We respectfully submit the Bristol West Restitution underpayments for claims total \$15,536.05. The net amount paid to claimants was \$14,656.65 plus six percent (6%) simple interest.

Line 5, CPA061 ClaimVehPPA930768275, on the Claims Tab of the Restitution Worksheet indicates a "Net to Customer" of \$99,999.99. The Review Sheet advises us to: "The company should reopen this file, contact the insured, determine if the insured rented or borrowed a car and incurred expenses as a result. The company should then reimburse the insured related expenses." This was done and the amount owed and paid was \$200.00 plus the interest for a net of \$212.00.

Line 12, CPA012 ClaimVehPPA1230446559, on the Claims Tab of the Restitution Worksheet indicates a "Net to Customer: of \$6,860.09. The Review Sheet advises us to: "The company is encouraged to reopen this claim and investigate the validity of this engine claim and to determine the value of the engine at the time of loss. At minimum, the company can rule out this engine claim and this underpayment will be removed." The claim was reopened and a settlement was made during the exam. We paid the interest when we received the Restitution Worksheet. We paid \$860.09 plus the interest for a net of \$911.70.

Section (4):

Remedial Action: The Companies continue to reinforce claim best practices with all claims representatives. Individual infractions were addressed with the respective claims representative. Follow up training in this area will be completed by 3-15-11. Specifics which will be addressed:

- Review Audit results with team



- Review 'Common Problems' found during MCE's from the VA BOI website with staff quarterly
- Review §38.2-510. Unfair claim settlement practices with entire team quarterly
- Review of APD Field Handling guidelines on File Documentation (page 2)
- Review of Liability Field handling guidelines on Documentation (page 8)

This area of concern will be included as part of the Supervisor file reviews and any deficiencies will be addressed individually and collectively.

See Addendum 18 for the appropriate pages of the above referenced APD and Liability Field Handling Guidelines.

Section (5):

Remedial Action: The Companies continue to reinforce claim best practices with all claims representatives. Individual infractions were addressed with the respective claims representative. Follow up training in this area will be completed by 3-15-11. Specifics which will be addressed:

- Review Audit results with team
- Review 'Common Problems' found during MCE's from the VA BOI website with staff quarterly
- Review §38.2-510. Unfair claim settlement practices with entire team quarterly
- Review of APD Field Handling guidelines on Pre-Inspection Contact with concentration on reviewing all applicable coverages (page 4)
- Review of APD Field Handling guidelines on File documentation (page 2)

The Medical Expense Benefits claims are handled by a unit of adjusters who specialize in the handling of Medical Expense Benefits claims. The Companies have processes and procedures in place to assure future compliance.

See Addendum 19 for the appropriate pages of the above referenced APD Field Handling Guidelines.

Section (6):

Remedial Action: The Companies continue to reinforce claim best practices with all claims representatives. Individual infractions were addressed with the respective claims representative. Follow up training in this area will be completed by 3-15-11. Specifics which will be addressed:

- Review Audit results with team
- Review 'Common Problems' found during MCE's from the VA BOI website with staff quarterly
- Review §38.2-510. Unfair claim settlement practices with entire team
- Review of APD Field Handling guidelines on Efficiency (Page 13).



- Review of Liability Field Handling guidelines on Customer Service (Page 11, bullet #2)

This area of concern will be included as part of the Supervisor file reviews and any deficiencies will be addressed individually and collectively.

See Addendum 20 for the appropriate pages of the above referenced APD and Liability Field Handling Guidelines.

*Please note, Seven (7) is missing from p. 28 of the Bureau's letter.*

Section (8):

Remedial Action: The Companies continue to reinforce claim best practices with all claims representatives. Individual infractions were addressed with the respective claims representative. Follow up training in this area will be completed by 3-15-11. Specifics which will be addressed:

- Review Audit results with team
- Review 'Common Problems' found during MCE's from the VA BOI website with staff quarterly
- Review §38.2-510. Unfair claim settlement practices with entire team
- Review of APD Field Handling guidelines on State Mandated letters (Page 13)

This area of concern will be included as part of the Supervisor file reviews and any deficiencies will be addressed individually and collectively.

See Addendum 20 for the appropriate page of the above referenced APD Field Handling Guidelines.

Section (9):

Remedial Action: The Companies continue to reinforce claim best practices with all claims representatives. Individual infractions were addressed with the respective claims representative. Follow up training in this area will be completed by 3-15-11. Specifics which will be addressed:

- Review Audit results with team
- Review 'Common Problems' found during MCE's from the VA BOI website with staff quarterly
- Review §38.2-510. Unfair claim settlement practices with entire team
- Review of APD Field Handling guidelines on Pre-Inspection Contact with concentration on reviewing all applicable coverages (Page 4)
- Review of APD Field Handling guidelines on Rental Management (Page 13-14)

This area of concern will be included as part of the Supervisor file reviews and any deficiencies will be addressed individually and collectively.



See Addendum 21 for the appropriate pages of the above referenced APD Field Handling Guidelines.

Section (10):

Remedial Action: The Companies continue to reinforce claim best practices with all claims representatives. Individual infractions were addressed with the respective claims representative. Follow up training in this area will be completed by 3-15-11. Specifics which will be addressed:

- Review Audit results with team
- Review 'Common Problems' found during MCE's from the VA BOI website with staff quarterly
- Review §38.2-510. Unfair claim settlement practices with entire team
- Review Post Inspection contact and Regulatory Compliance sections of the APD Field Handling guidelines (Pages 4 and 7, 8, 9)

This area of concern will be included as part of the Supervisor file reviews and any deficiencies will be addressed individually and collectively.

See Addendum 22 for the appropriate pages of the above referenced APD Field Handling Guidelines.

Section (11):

Remedial Action: The Companies continue to reinforce claim best practices with all claims representatives. Individual infractions were addressed with the respective claims representative. Follow up training in this area will be completed by 3-15-11. Specifics which will be addressed:

- Review Audit results with team
- Coverage training to include reinforcement that VA PAP does not allow for excluded drivers
- Review 'Common Problems' found during MCE's from the VA BOI website with staff quarterly
- Review §38.2-510. Unfair claim settlement practices with entire team quarterly

This area of concern will be included as part of the Supervisor file reviews and any deficiencies will be addressed individually and collectively.

Section (12):

Remedial Action: The Companies continue to reinforce claim best practices with all claims representatives. Individual infractions were addressed with the respective claims representative. Follow up training in this area will be completed by 3-15-11. Specifics which will be addressed:



- Review Audit results with team
- Review 'Common Problems' found during MCE's from the VA BOI website with staff quarterly
- Review §38.2-510. Unfair claim settlement practices with entire team quarterly
- Continued training on the APD and Liability Strategy
- Integration of BW claim handling into the Farmers claim handling guidelines in September, 2009 has greatly increased the level of claim handling and reduced the number of errors.

This area of concern will be included as part of the Supervisor file reviews and any deficiencies will be addressed individually and collectively.

Section (13):

Remedial Action: The Companies continue to reinforce claim best practices with all claims representatives. Individual infractions were addressed with the respective claims representative. Follow up training in this area will be completed by 3-15-11. Specifics which will be addressed:

- Review Audit results with team
- Review 'Common Problems' found during MCE's from the VA BOI website with staff quarterly
- Review §38.2-510. Unfair claim settlement practices with entire team quarterly
- Staff training on proper language to be utilized on any and all indemnity payments

This area of concern will be included as part of the Supervisor file reviews and any deficiencies will be addressed individually and collectively. In order to minimize human error in this area, a more global solution is being sought with system edits and enhancements.

**Forms Review**

Section (1):

The CAP will be addressed as part of a rate revision scheduled for mid-May 2011. A complete filing for Bristol West Insurance Company and Bristol West Casualty Insurance Company will be submitted to the Bureau in February 2011. The CAP for this section is as follows:

Cite	Issue	Remediation
38.2-1318/4	Failure to provide form PP-02-01-01-05 Suspension of Insurance (1276005590)	The Suspension of Insurance form will be included with the declarations package when coverage suspension is requested.
38.2-1318/4	Failure to provide form PP-02-02-08-86 Reinstatement of Insurance (-1089747553)	The Reinstatement of Insurance form will be included with the declarations package when coverage reinstatement is requested.
38.2-1318/4	Failure to provide form PP-13-55-06-00	*Add Towing Form # PP 13 55 06 00 to our



	Towing and Labor Costs Coverage (1782923982)	policy contract. *Print Form #PP 13 55 06 00 on Dec Pages when purchased. *File Form # PP 13 55 06 00 with BOI.
--	---	--

**Review of Policy Issuance Process**

The CAP will be addressed as part of a rate revision scheduled for mid-May 2011. A complete filing for Bristol West Insurance Company and Bristol West Casualty Insurance Company will be submitted to the Bureau in February 2011. The CAP for this section is as follows:

Cite	Issue	Remediation
38.2-305 A/3	Towing and Labor Costs endorsement not listed on the Dec page (1523726590)	*Add Towing Form # PP 13 55 06 00 to our policy contract. *Print Form #PP 13 55 06 00 on Dec Pages when purchased. *File Form # PP 13 55 06 00 with BOI.
38.2-305 A/5	Single Limit Liability and Single Uninsured Motorist Liability coverage, and Loss Payable clause listed on Dec but not applicable to policy (multiple review sheets)	*Remove Single Limit from Policy Contract. *Remove Single Limit Liability from Dec Page. *Remove Single Limit Liability from Forms Filing list. *Incorporate Loss Payee clause into Part D.
38.2-305A/1	Typo incorrectly identifies endorsement PP 03 27 06 00 as PP 03 26 06 00 on the Dec page (multiple review sheets)	Correctly prints PP 03 27 06 00 on new business and renewal declarations pages for Bristol West Casualty Insurance Company. Needs to be corrected for Bristol West Insurance Company.

**Review of Statutory Notices**

Section (1):

The CAP will be addressed as part of a rate revision scheduled for mid-May 2011. A complete filing for Bristol West Insurance Company and Bristol West Casualty Insurance Company will be submitted to the Bureau in February 2011. The CAP for this section is as follows:

Cite	Issue	Remediation
38.2-305 B/2	Missing language from the "Important Information About Your Insurance" notice (741815910 & -1668271525)	Add sentence that begins: "Written correspondence is preferable..." to the bottom of VA-N-101-03 and VA-S-101-03. The language is promulgated in the statute see 38.2.305.

Section (2):

Remediation will be managed by the claims department and implemented by March 15, 2011.

Section (3):



The CAP will be addressed as part of a rate revision scheduled for mid-May 2011. A complete filing for Bristol West Insurance Company and Bristol West Casualty Insurance Company will be submitted to the Bureau in February 2011. The CAP for this section is as follows:

Cite	Issue	Remediation
38.2-604 B/2	Notice of Information Collection and Disclosure Practices (long form) did not contain all the elements as required by statute (specifically, subsections 3, 4 and 5.) This violation was for Bristol West Insurance Company only. (607974947)	Add the "Statement of Privacy Practices" included with the application to all renewal declaration packages.

Section (4):

The CAP will be addressed as part of a rate revision scheduled for mid-May 2011. A complete filing for Bristol West Insurance Company and Bristol West Casualty Insurance Company will be submitted to the Bureau in February 2011. The CAP for this section is as follows:

Cite	Issue	Remediation
38.2-610 A/2	The Adverse Action Notice does not contain substantially similar language to that of the prototype set forth in Administrative Letter 1981-16 (both underwriting companies) (-1246346160 & -818542637)	Create a VA-specific Adverse Action notice that follows the prototype and include with all new business and renewal declarations packages.

Section (5):

The CAP will be addressed as part of a rate revision scheduled for mid-May 2011. A complete filing for Bristol West Insurance Company and Bristol West Casualty Insurance Company will be submitted to the Bureau in February 2011. The CAP for this section is as follows:

Cite	Issue	Remediation
38.2-1905 A/3	Accident and Violation Disclosures, Point Letter (07/96) does not include the right to appeal (857547114)	Add the following language to the Accidents & Violation Disclosure notice: "You may appeal this decision to the Commissioner if you feel that your premium has increased or you have been charged points as a result of a motor vehicle accident without just cause. Your request for appeal should be addressed to the Commissioner of Insurance, Bureau of Insurance, P.O. Box 1157, Richmond, Virginia 23218 and should state clearly your reasons for appeal."

Section (6):



The CAP will be addressed as part of a rate revision scheduled for mid-May 2011. A complete filing for Bristol West Insurance Company and Bristol West Casualty Insurance Company will be submitted to the Bureau in February 2011. The CAP for this section is as follows:

Cite	Issue	Remediation
38.2-2202 A/1 & 2	Important Notice - Medical Expense Benefits does not conform to the precise wording and boldface type as required by the statute (20324229011 & 219800804)	Change the word "producer" to "agent" in the last paragraph and bold all words on VA-S-101-02 (09/07) BWCIC. Bold all words on VA-N-101-02 BWIC.

Section (7):

The CAP will be addressed as part of a rate revision scheduled for mid-May 2011. A complete filing for Bristol West Insurance Company and Bristol West Casualty Insurance Company will be submitted to the Bureau in February 2011. The CAP for this section is as follows:

Cite	Issue	Remediation
38.2-2202 B/1 & 2	Important Notice - Uninsured Motorist Coverage does not conform to the precise wording and boldface type as required by the statute (684718603 & -1620503165)	Follow the precise wording as it appears in 38.2-2234 A 1.

Section (8):

The CAP will be addressed as part of a rate revision scheduled for mid-May 2011. A complete filing for Bristol West Insurance Company and Bristol West Casualty Insurance Company will be submitted to the Bureau in February 2011. The CAP for this section is as follows:

Cite	Issue	Remediation
38.2-2234 A-1/2	Credit disclosure on page 4 of the application does not conform to the precise wording as required by statute (-1075169215)	Follow the precise wording as it appears in 38.2-2234 A 1

Section (9):

The CAP will be addressed as part of a rate revision scheduled for mid-May 2011. A complete filing for Bristol West Insurance Company and Bristol West Casualty Insurance Company will be submitted to the Bureau in February 2011. The CAP for this section is as follows:

Cite	Issue	Remediation
38.2-502 1/1	Offer of Rental Reimbursement Coverage (part of application) contains a reference to a daily limit which is contrary to the policy under PP-13-52-01-04 (1970680881)	VA-S-101-02 (09/07) - remove the reference to the daily limit and replace with the single limit listed in the policy contract.

**Licensing and Appointment Review**



The Companies have appointed all non-appointed agents/agencies found in the examination. In addition, the licensing department has implemented the following procedure:

*To ensure licensing and appointment compliance, each Coordinator will not grant the producer access to quoting and underwriting systems until the license and active appointments are validated. Each Coordinator conducts a verification of a producer's license and applicable lines of authority with the DOI or the NIPR's Producer Database system prior to accepting contracts and submitting for a producer's appointment with the state. Once verified, the license number, expiration date, lines of authority and appointment information are entered into our internal data base, Agent Commission Exchange (ACE), and the appropriate Company appointments are submitted electronically to our vendor, Sircon, based on the lines of authority selected. The submitted appointments are monitored until the appointments come back processed with an effective date from the DOI. All new agents are appointed prior to the contract execution and prior to the first insurance application submission. We conduct periodic license verification through internal audits and Marketing Manager compliance discussions with the agents which are documented in an internal database.*

A 100% audit of all Virginia agents/agencies will be completed before the end of 2011 Q2.

### **PART THREE – EXAMINERS' NOTES**

The Companies have reviewed the examiners' recommendations and will ensure that the errors do not rise to the level of a business practice.

Should you have any questions about the remediation plan or enclosures, please contact me at (216)-446-4501 or by email at: [christina.austin@farmersinsurance.com](mailto:christina.austin@farmersinsurance.com).

Sincerely,

A handwritten signature in cursive script that reads 'Christina Austin'.

Christina Austin  
Compliance Director  
Bristol West Insurance Company  
Bristol West Casualty Insurance Company  
5990 West Creek Rd.  
Independence, OH 44131

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

# COMMONWEALTH OF VIRGINIA



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April 13, 2011

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

Christina Austin  
Director – Compliance  
Bristol West Insurance Group  
5990 West Creek Road  
Independence, OH 44131

Re: Market Conduct Examination  
Bristol West Insurance Company (NAIC# 19658)  
Bristol West Casualty Insurance Company (NAIC# 11034)  
Examination Period: January 1, 2009 – December 31, 2009

Dear Ms. Austin:

The Bureau of Insurance (Bureau) has reviewed the Bristol West Insurance Companies' (Companies) February 3, 2011, response to the Preliminary Market Conduct Report (Report). The Bureau has referenced only those items in which the Companies have disagreed with the Bureau's findings, or items that have changed in the Report. This response follows the format of the Report.

The items addressed as the Introduction in your letter have been responded to in the Observations section of this letter. The overcharges and undercharges have been amended to reflect any changes made to the corresponding items in the Report.

### Automobile New Business

- (1)a The violations in this subsection have been withdrawn. The total number of violations of § 38.2-305 A of the Code of Virginia (Code) has been changed from 29 to 23.
- (3)a The discount/surcharge violation for RPA013 remains in the Report. The Core Discount factor used by the Company is incorrect. The information provided in Addendum 2 showed the applicable Core discount code as MNYNM1 for all coverages. The file did not include proof of homeownership and as such the core discount should have been MNNNM1 for Bodily Injury (BI), Property Damage (PD), Collision (COLL), and Other Than Collision (OTC) coverages and MNNNM2 for the Uninsured Motorist Bodily Injury (UMBI) coverage.

The discount/surcharge violation for RPA017 remains in the Report. The Company used the core discount factor associated with Market Tier M2 for each of the coverages on the policy. However, the information provided indicates Market Tier M1

as applicable to the COLL and Uninsured Motorist Property Damage (UMPD) coverages and Market Tier M3 as applicable to the UMBI coverage.

- (3)b After further review the violation for RPA014 has been withdrawn. The Company provided additional information to support the symbols used. The Report has been revised to reflect this change.
- (3)d After further review the violation for RPA007 has been withdrawn. The Company provided documentation to support the dispute of the accident on 6/29/07. The Report has been renumbered to reflect this change.

### **Automobile Renewal Business**

- (1)a The violations in this subsection have been withdrawn with the violations in subsection 1c of the Report. The total number of violations of § 38.2-305 A of the Code has been changed from 73 to 50.

- (4)a The violation for RPA021 remains in the Report. The Company used Market Tier M4 for all of the coverages when developing the core discount. However, Market Tier M4 is not applicable to the PD, COLL or UMPD coverages. The underwriting and credit tiers applicable to this insured indicates the applicable Market Tier for the aforementioned coverages as M5.

The violation for RPA024 remains in the Report. The Company used Market Tier M4 for all of the coverages when developing the core discount. However, M4 is applicable to the BI coverage only. The underwriting and credit tiers applicable to this insured indicates the applicable Market Tier for the PD, OTC and UMBI coverages as Market Tier M3 and Market Tier M2 for COLL and UMPD.

The violation for RPA026 remains in the Report. The Company used Market Tier M3 for COLL coverage when developing the core discount. The underwriting and credit tiers applicable to this insured indicate the applicable Market Tier for COLL coverage as M2.

The violation for RPA029 remains in the Report. The Company used Market Tier M4 for all of the coverages when developing the core discount. However, Market Tier M4 is not applicable to the COLL, OTC or UMPD coverages. The underwriting and credit tiers applicable to this insured indicate the applicable Market Tier for the aforementioned coverages as M5.

The violation for RPA032 remains in the Report. The Company used Market Tier M5 for all of the coverages when developing the core discount. However, Market Tier M5 is not applicable to the PD, COLL, OTC, UMBI or UMPD coverages. The underwriting and credit tiers applicable to this insured indicate the applicable Market Tier for these coverages is Market Tier M4. This violation did not result in an overcharge or an undercharge. Further, the SR-22 violation referenced in the Company's response was withdrawn on 08/31/10 and was not referenced in the Report.

- (4)b The violation for RPA029 remains in the Report. The Company has not provided any additional information that would cause the Bureau to reconsider its initial findings. The Company incorrectly determined the point assignment for driver 2 when rating this policy. The driver had a speeding violation (>15MPH above the speed limit) on 04/05/07, an at fault accident on 12/06/07, and a speeding violation (<=15MPH above the speed limit) on 12/16/07. Based upon the filed point assignment rule, the points should be assigned as follows: BI 8 points, PD 7 points, UMBI 4 points, OTC 6 points,

and UMPD and COLL 9 points each. It appears that the Company is evaluating the speeding violations as if they are two occurrences of the same type of speeding violations using the first and second occurrence under the speeding ( $\leq 15$ MPH) to determine the points for each of the coverages.

The violation for RPA034 remains in the Report. The Company charged the insured for an at fault accident that occurred on 02/19/08. However, this accident should have been classified as a not at fault accident. This was an Uninsured Motorist claim which is a not at fault accident. In Virginia, COLL coverage is primary when paying UM claims and the deductible is reimbursed under the UM coverage. If the claim is a UM claim the insured should not be charged with an at fault accident. Because the Companies seem to be handling UM claims incorrectly in Virginia, the Companies should conduct an internal audit of all UM claims reported between July 26, 2008 and July 26, 2010 and advise the Bureau how the claims were evaluated on the subsequent renewal.

- (4)d After further review the violation for the RPA039 has been withdrawn.

#### **Nonpayment of Premium Cancellations**

- (1) The violation for TPA035 remains in the Report. The earned premium was \$182.00 and a \$25.00 NSF fee was added resulting in a total premium of \$207.00. The insured paid \$109.22 on 09/09/09 and the accounting information indicates this was the only payment made by the insured prior to the cancellation. The Company has responded that the insured paid \$134.22, but there is no documentation to support this amount. Please see the attached accounting information from the termination file showing \$109.22 as the only amount paid during this policy period.

After further review the violation for TPA050 has been withdrawn.

- (3)a After further review the violation for TPA011 has been withdrawn.  
(3)b After further review the violation for TPA011 has been withdrawn.

#### **Insured Requested Cancellations**

- (1) The violation for TPA077 remains in the Report. The Company failed to provide a copy of the declarations page indicating the revised premium due to the endorsement. This violation cannot be reconsidered until the Company provides the revised declarations page.

#### **Claims**

The Bureau noted several numbering errors in this section of the Report. The Report has been amended to reflect the accurate numbering.

### **PART TWO - CORRECTIVE ACTION PLAN**

#### **Rating and Underwriting**

- (1) The violations associated with the overcharges for RPA021, RPA029, and RPA034 remain in the Report. As such, the Companies should correct the errors that caused the overcharges, send the insureds the refunds indicated in the spreadsheet and

report to the Bureau that the refund plus the 6% interest has been sent to the insureds or that the Companies have credited the insureds' accounts.

- (4-6) The Bureau has no evidence of a filing submitted in February of 2011. Please advise when this filing will be submitted.
- (7) The Corrective Action Plan required the Companies to conduct an internal audit of all of their UM claims between July 26, 2008 and July 26, 2010 and report its findings to the Bureau. The Companies should conduct the audit and report its findings with its next response.

### **Terminations**

- (4) Please advise when the training procedures will be revised and distributed to the policy services department.
- (5) The corrective action previously shown as item five has been removed from the Report.
- (6) Please advise when the training procedures will be revised and distributed to the policy services department.
- (8) The corrective action previously shown as item eight has been removed from the Report.
- (10) Please advise when the training procedures will be revised and distributed to the policy services department.
- (11) Please advise when the training procedures will be revised and distributed to the policy services department.

### **Forms**

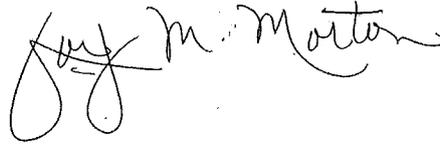
The Companies have indicated in their response that form PP 13 55 06 00, Towing and Labor Costs Coverage – Virginia will be filed with the Bureau. This form is a standard form and cannot be physically filed for the Companies' use (unless the Companies' intend to broaden the provisions of the standard form). However, the Companies must have the form available for use if Towing and Labor Coverage is being written in Virginia.

### **Policy Issuance**

The Companies' have indicated in their response that form PP 13 55 06 00, Towing and Labor Costs Coverage – Virginia will be filed with the Bureau. This is a standard form and cannot be physically filed for the Companies' use. However, the Companies must have the form available for use. Further, the Companies have indicated that form 03 05 06 08 86, Loss Payable Clause will be incorporated into Part D of form PP 00 01 01 05. Please advise when this change will be made. Finally, please advise when PP 03 27 06 00 will print correctly on the declarations pages issued by Bristol West Insurance Company.

Enclosed with this letter is a revised version of the Report, technical reports, the Restitution spreadsheet and any review sheets withdrawn, added or altered as a result of this review. The companies' response to this letter is due in the Bureau's office by May 2, 2011.

Sincerely,

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

Joy M. Morton  
Supervisor  
Market Conduct Section  
Property and Casualty Division  
(804) 786-2317  
[joy.morton@scc.virginia.gov](mailto:joy.morton@scc.virginia.gov)

JMM/sb



STATE FOOD COMMISSION  
BUREAU OF INSURANCE

12 MAY -9 AM 9:26

Apex Adjustment Bureau, Inc.  
Bayview Adjustment Bureau, Inc.  
Bristol West Casualty Insurance Company  
Bristol West Insurance Company

Bristol West Insurance Services of California, Inc.  
Bristol West Insurance Services, Inc. of Florida  
Bristol West Insurance Services of Nevada, Inc.  
Bristol West Insurance Services of Texas, Inc.  
Coast National Holding Company

Coast National Insurance Company  
Insurance Data Systems, G.P.  
Coast National General Agency, Inc.  
Security National Insurance Company

May 6, 2011

Joy M. Morton  
Supervisor – Market Conduct Section  
Commonwealth of Virginia  
Bureau of Insurance  
1300 E. Main Street, 5<sup>th</sup> Floor  
Richmond, VA 23219

Re: **Market Conduct Examination**  
**Bristol West Insurance Company (NAIC #19658)**  
**Bristol West Casualty Insurance Company (NAIC #11034)**  
**Examination Period: January 1, 2009 – December 31, 2009**

Dear Ms. Morton:

This letter is in response to your letter dated April 13, 2011. As requested, the Companies' comments will appear in the same order as in the Report. If no comment appears for a given section of the report, then the Companies agree with the Bureau's finding.

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

### **Automobile New Business Policies**

#### Section (3)a:

Issue - Failure to use correct discounts/surcharges. RPA013, review sheet R&UNBPPA1286897418. The Company respectfully submits that the policy rated with the correct core discount. See Addendum 1 for proof of homeownership.

Issue – Failure to use correct discounts/surcharges. RPA017, review sheet R&UNBPPA-2126730267. The Company respectfully submits that the policy rated with the correct core discount factor. One of the elements of the Core Discount Factor is Market Tier. Market Tier is a combination of Underwriting Tier and BI Credit Tier. Therefore, only one Market Tier will be used to select the Core Discount Factor which will then be used across all coverages. It appears that the Bureau is determining Market Tier by using the Credit Tier associated with each coverage, instead of just BI. Thus, the Core Discount factor is varying across coverage and develops a different rate than that calculated by the Company. This issue applies to all policies cited in the Automobile Renewal Business Section (4)a below.



## **Automobile Renewal Business Policies**

### Introduction – Renewal Business Overcharges:

#### Section (4)a:

All of the issues listed below relate to the Market Tier – Core Discount issue addressed in Section (3)a, above. The Company respectfully submits that the policies rated with the correct core discount factor.

Issue – Failure to use correct core discount/surcharge. RPA021, review sheet R&URBPPA781385156.

Issue – Failure to use correct core discount/surcharge. RPA024, review sheet R&URBPPA-204623026.

Issue – Failure to use correct rate matrix factor. RPA026, review sheet R&URBPPA-1742041446.

Issue - Failure to use correct core discount/surcharge. RPA029, review sheet R&URBPPA966281460.

Issue - Failure to use correct core discount/surcharge. RPA032, review sheet R&URBPPA2080022782.

#### Section (4)b:

Issue – Failure to apply the correct point assignment to driver #2. RPA029, review sheet R&URBPPA 914874267. The Company agrees with the Bureau's finding, and has refunded the overcharge as requested. The reason for our rating discrepancy is that the current filing is missing the following footnote: "SPL and SPH are to be considered together for the purposes of counting points. Example: 1 SPL and 1 SPH results in 5 points."

Issue – Company charged an at-fault accident for a UM claim. RPA034, review sheet R&URBPPA1544331799. The Company respectfully maintains that it properly charged for an at-fault accident at new business because the applicant reported the incident as an at-fault occurrence to his agent. However, the Bureau advised the following in its April 13, 2011 letter: "Because the Companies seem to be handling UM claims incorrectly in Virginia, the Companies should conduct an internal audit of all UM claims reported between July 26, 2008 and July 26, 2010 and advise the Bureau how the claims were evaluated on the subsequent renewal."

The Company verified with its Virginia Claims Department that it does treat collision coverage as primary when paying UM claims and that the deductible is reimbursed under the UM coverage. These claims, along with all others, are evaluated 60 days prior to policy renewal.



During a preliminary audit of this renewal process the Company discovered one recent instance in which a Virginia “faultless” collision feature was added to the renewal offer as an at-fault accident. Given this finding, the Company agrees to conduct a look back of all “faultless” collision features paid in Virginia to ensure that they were not added to renewal offers as at-fault accidents. The look back will consist of UM claims reported from July 26, 2008 through present.

**All Other Cancellations – Automobile Policies**  
**Nonpayment of the Premium**

Section (1):

Issue - Incorrectly calculated return premium (undercharge.) TPA035, review sheet TermNPPPA1726784692. The Company respectfully submits that the return premium was calculated correctly. As the examiner noted, the earned premium was \$182 (plus a \$25 non-sufficient funds fee) for a total of \$207. Additionally, the examiner correctly noted that the insured paid \$109.22 on September 9, 2009. The insured remitted a second payment for \$112.94 on October 9, 2009 which was reversed for non-sufficient funds. A \$25.00 non-sufficient funds fee was assessed. The policy subsequently cancelled on October 31, 2009. The insured was billed for \$96.78 after cancel (\$71.78 in premium plus the \$25.00 NSF fee.) After one year in collections, the \$71.78 in premium was written-off and the \$25.00 NSF fee was waived. The fee was waived so as not to impact the commissions charged-back to the agent. See Addendum 2 for a copy of the final bill for \$96.78 and a screen shot of the accounting breakdown.

**All Other Cancellations – Automobile Policies**  
**Requested by the Insured**

Introduction – Termination Overcharges:

TPA077 – The Company respectfully submits that there was not an overcharge on this policy. We agree that the policy was cancelled pro-rate instead of short-rate. However, there is not an overcharge because the total premium was \$339 + \$53 (endorsement effective 7/30/2009.) The total term premium is therefore \$392. See Addendum 3 for the requested endorsement declarations page.

**PART TWO – CORRECTIVE ACTION PLAN**

**Rating and Underwriting Review**

Sections (1), (2), and (3):

See Addendum 14 for the restitution worksheet. As noted in Part One above, refunds on the following policies have not been processed because the company submits that it correctly calculated the rates.



RPA021 – Further discussion regarding the Bureau’s method of calculating the Core Discount Factor may be necessary.

RPA029 – Further discussion regarding the Bureau’s method of calculating the Core Discount Factor may be necessary.

RPA034 – The insured self-reported the at-fault accident in question.

Sections (4)-(6):

The Company submitted its filing on April 21, 2011.

Section (7):

As noted in the Examiners’ Observations section above, the Company has agreed to conduct a look back of all “faultless” collision features paid in Virginia to ensure that they were not added to renewal offers as an at-fault accident. The look back will consist of UM claims reported from July 26, 2008 through present. This project is estimated to take two (2) months from the date of this letter. If completed sooner, the results will be promptly submitted to the Bureau.

**Termination Review**

Sections (4), (6), (10), and (11):

Revised training procedures will be distributed to the policy services department on May 9, 2011.

**Forms Review**

The Company will be using the standard Towing and labor Costs Coverage form PP 13 55 06 00, and understands that it is not necessary to file with the Bureau.

**Review of Policy Issuance Process**

The Company will be using the standard Towing and labor Costs Coverage form PP 13 55 06 00, and understands that it is not necessary to file with the Bureau.

Loss Payable Clause will not be incorporated into Part D. The Company will use the standard form.

PP 03 27 06 00 will properly print on the declarations pages for Bristol West Insurance Company for renewal offers issuing on and after May 31, 2011.



Should you have any questions about the remediation plan or enclosures, please contact me at (216)-446-4501 or by email at: [christina.austin@farmersinsurance.com](mailto:christina.austin@farmersinsurance.com).

Sincerely,

A handwritten signature in black ink that reads 'Christina Austin' in a cursive script.

Christina Austin  
Compliance Director  
Bristol West Insurance Company  
Bristol West Casualty Insurance Company  
5990 West Creek Rd.  
Independence, OH 44131

# COMMONWEALTH OF VIRGINIA

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



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

June 28, 2011

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

Christina Austin  
Director – Compliance  
Bristol West Insurance Group  
5990 West Creek Road  
Independence, OH 44131

Re: Market Conduct Examination  
Bristol West Insurance Company (NAIC# 19658)  
Bristol West Casualty Insurance Company (NAIC# 11034)  
Examination Period: January 1, 2009 – December 31, 2009

Dear Ms. Austin:

The Bureau of Insurance (Bureau) has reviewed the Bristol West Insurance Companies' (Companies) May 6, 2011, response to the Preliminary Market Conduct Report (Report). The Bureau has referenced only those items in which the Companies have disagreed with the Bureau's findings, or items that have changed in the Report. This response follows the format of the Report.

## PART ONE – THE EXAMINERS' OBSERVATIONS

### Automobile New Business

- (3) a. After further review the violation for RPA013 for applying a Homeowner Discount without evidence of homeownership has been withdrawn. However, a revised review sheet was generated for the Core Discount as including the homeownership discount caused the calculations to result in an overcharge. Please make restitution to the insured in accordance with the revised worksheet enclosed.

The violation for RPA017 remains in the Report. The companies do not have a rule on file with the Bureau that states that the Credit Tier associated with the BI coverage will be used for all coverages. The companies should review the rules currently on file with the Bureau and make the revisions necessary to reflect the companies' current practices.

## **Automobile Renewal Business**

- (4) a. The violations cited in this section of the Report remain in the Report. The companies do not have a rule on file with the Bureau that states that the Credit Tier associated with the BI coverage will be used for all coverages. The companies should review the rules currently on file with the Bureau and make the revisions necessary to reflect the companies' current practices.
- (4) b. The violation for RPA029 remains in the Report. By the companies' own admission the filed manual pages did not include the footnote changing the method of counting points; as such, the rule was not available for the companies use in Virginia.

The violation for RPA034 remains in the Report. The CLUE report provided by the company as documentation for the examination showed the violation in question as an uninsured motorist claim. The company had the information necessary to properly rate the policy and did not make the corrections when this information was received.

The companies must provide evidence of the audit of UM claims reported from July 26, 2008 through May 6, 2011. This information should be included in the companies' response to this letter. The information should include evidence of any restitution made to insureds as a result of improperly renewing policies with UM claims as at fault accidents.

## **TERMINATIONS**

### **Nonpayment of Premium**

After further review the violation for TPA035 has been withdrawn.

### **Insured Requested**

The violation for TPA077 remains in the Report. Based upon the endorsement and the revised calculations the net overcharge has been amended to reflect an undercharge of \$21.00.

### **Forms**

After further review the violations under this section have been withdrawn. However, these violations have been rewritten under § 38.2-2220 of the Code of Virginia.

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

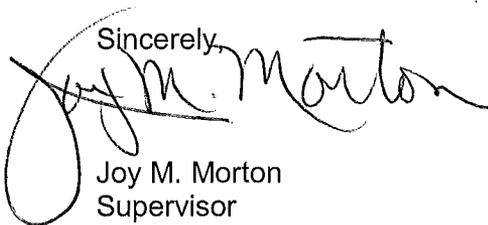
### **Rating and Underwriting**

- (1) The Restitution spreadsheet has been amended to reflect the overcharge for RPA013.

- (4) We have checked with the Rates and Forms section here at the Bureau and are unable to find evidence of a filing submitted by the Bristol West Companies. Please advise the BOI filing reference number and the final disposition of this filing.
  
- (7) The companies' response to this letter should include results of the internal audit and all evidence of the restitution made as a result of the audit. The companies should include in its spreadsheet the insured's name, the amount of the restitution, the check number, and the date the check was issued.

Enclosed with this letter is a revised version of the Report, technical reports, the Restitution spreadsheet and any review sheets withdrawn, added or altered as a result of this review. The companies' response to this letter is due in the Bureau's office by July 14, 2011.

Sincerely,

A handwritten signature in black ink that reads "Joy M. Morton". The signature is fluid and cursive, with a large loop at the beginning of the first name.

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

JM/sb



Apex Adjustment Bureau, Inc.  
Bayview Adjustment Bureau, Inc.  
Bristol West Casualty Insurance Company  
Bristol West Insurance Company

Bristol West Insurance Services of California, Inc.  
Bristol West Insurance Services, Inc. of Florida  
Bristol West Insurance Services of Nevada, Inc.  
Bristol West Insurance Services of Texas, Inc.  
Coast National Holding Company

Coast National Insurance Company  
Insurance Data Systems, G.P.  
Coast National General Agency, Inc.  
Security National Insurance Company

July 13, 2011

Joy M. Morton  
Supervisor – Market Conduct Section  
Commonwealth of Virginia  
Bureau of Insurance  
1300 E. Main Street, 5<sup>th</sup> Floor  
Richmond, VA 23219

Re: **Market Conduct Examination**  
**Bristol West Insurance Company (NAIC #19658)**  
**Bristol West Casualty Insurance Company (NAIC #11034)**  
**Examination Period: January 1, 2009 – December 31, 2009**

Dear Ms. Morton:

This letter is in response to your letter dated June 28, 2011. As requested, the Companies' comments will appear in the same order as in the Report. If no comment appears for a given section of the report, then the Companies agree with the Bureau's finding and have no additional comments.

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

### **Automobile New Business Policies**

#### Section (3)a:

Issue - Failure to use correct discounts/surcharges. RPA013, review sheet R&UNBPPA1286897418. The Company did not have a rule filed with the Bureau stating that the Credit Tier associated with the BI coverage is used for all coverages in order to calculate the Core Discount. Therefore, at the Bureau's request, the Company has made restitution on RPA013. See Addendum 1 for the updated restitution worksheet.

### **Automobile Renewal Business Policies**

#### Section (4)a:

The Company agrees with the Bureau's finding for the same reason stated above for RPA013. It has made restitution on RPA021, as requested.



Section (4)b:

Issue – Company charged an at-fault accident for a UM claim. RPA034, review sheet R&URBPPA1544331799. The Company respectfully maintains that it properly charged for an at-fault accident at new business because the applicant reported the incident as an at-fault occurrence to his agent. However, the Bureau advised the following in its April 13, 2011 letter: “Because the Companies seem to be handling UM claims incorrectly in Virginia, the Companies should conduct an internal audit of all UM claims reported between July 26, 2008 and July 26, 2010 and advise the Bureau how the claims were evaluated on the subsequent renewal.”

The Company verified with its Virginia Claims Department that it does treat collision coverage as primary when paying UM claims and that the deductible is reimbursed under the UM coverage, and agreed to conduct a look back to ensure that fault-free UM claims were not being added as at-fault accidents on subsequent renewals. The following is an account of our methodology and results:

Look Back Period: July 1, 2008 – June 1, 2011

Number of Claims in Look Back Period: 9,201

Number of Claims with UM and/or UMPD Feature in Look Back Period: 1,088

Number of UM/UMPD Claims with Payout >\$0: 685

The Company queried the policies associated with the 685 UM/UMPD claims and found 172 that had at least one at-fault accident. Of those 172, there were 17 policies with an at-fault accident date that matched (within a day or two) of the UM/UMPD claim date of loss.

The Company manually reviewed each of the 17 policies and 17 claims to determine if the at-fault accident had been added improperly. Our conclusion is that eight policies are entitled to a refund. The analysis and list of policies which will receive refunds appears in Addendum 2.

The root cause of this issue is the Company’s practice of ordering MVRs at renewal and automatically adding any accident found as an at-fault occurrence. We have initiated a project to exclude accidents from the MVR renewal reconciliation process and anticipate completion to be within the third quarter of 2011. Until the project is complete, we will continue to do regular look backs to remove at-fault accidents where the source is an MVR.

We are actively working on processing refunds on the eight policies and will forward the Bureau the results as soon as they are completed.

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

### **Rating and Underwriting Review**

Section (4):



The SERFF tracking number is BRWS-127131827. The disposition is still pending state action. See Addendum 3 for the Objection Letters and the Company's responses.

Section (7):

As noted in the Examiners' Observations section above, the Company conducted a look back of all UM/UMPD features paid in Virginia to ensure that they were not added to renewal offers as at-fault accidents.

Due to the complexity of processing refunds on policies that are expired, canceled, and endorsed, we were unable to complete this restitution by July 14, 2011. We are actively working on the project and anticipate completion within the next two weeks. We will forward the complete results at that time.

Should you have any questions about the remediation plan or enclosures, please contact me at (216)-446-4501 or by email at: [christina.austin@farmersinsurance.com](mailto:christina.austin@farmersinsurance.com).

Sincerely,

A handwritten signature in cursive script that reads 'Christina Austin'.

Christina Austin  
Compliance Director  
Bristol West Insurance Company  
Bristol West Casualty Insurance Company  
5990 West Creek Rd.  
Independence, OH 44131

# COMMONWEALTH OF VIRGINIA

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



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

August 12, 2011

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

Christina Austin  
Director – Compliance  
Bristol West Insurance Group  
5990 West Creek Road  
Independence, OH 44131

Re: Market Conduct Examination  
Bristol West Insurance Company (NAIC# 19658)  
Bristol West Casualty Insurance Company (NAIC# 11034)  
Examination Period: January 1, 2009 – December 31, 2009

Dear Ms. Austin:

The Bureau of Insurance (Bureau) has concluded its review of the companies' response of July 13, 2011. Based upon the Bureau's review of the companies' letter, we are now in a position to conclude this examination. Enclosed are the Final Market Conduct Examination Report of Bristol West Insurance Company and Bristol West Casualty Insurance Company (Report) and corresponding technical reports.

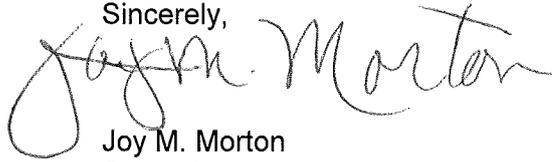
Based on the Bureau's review of the Report and the companies' responses, it appears that a number of Virginia insurance laws and regulations have been violated, specifically:

Sections 38.2-305 A, 38.2-305 B, 38.2-502, 38.2-510 A 1, 38.2-510 A 3, 38.2-510 A 10, 38.2-517 A 3, 38.2-604 B, 38.2-610 A, 38.2-1812, 38.2-1833, 38.2-1905 A, 38.2-1905 C, 38.2-1906 D, 38.2-2202 A, 38.2-2202 B, 38.2-2208 B, 38.2-2212 D, 38.2-2212 E, 38.2-2212 F, 38.2-2220, and 38.2-2234 of the Code of Virginia and 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-50 C, 14 VAC 5-400-70 A, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D of the Virginia Administrative Code.

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

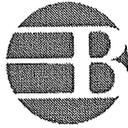
In light of the above, the Bureau will be in further communication with you shortly regarding the appropriate disposition of this matter.

Sincerely,

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

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

JMM/sb



**BRISTOL WEST**  
INSURANCE GROUP

STATE CORP COMMISSION  
BUREAU OF INSURANCE

SEP 13 AM 9:51

September 8, 2011

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

Re: Market Conduct Examination Settlement Offer  
Examination Period: January 1, 2009 – December 31, 2009

Dear Ms. Bannister:

This will acknowledge receipt of the Bureau of Insurance's letter dated August 12, 2011 concerning the above-referenced matter.

We wish to make a settlement offer on behalf of the insurance companies listed below for the alleged violations of §§ 38.2-305 A, 38.2-305 B, 38.2-502, 38.2-510 A 1, 38.2-510 A 3, 38.2-510 A 10, 38.2-517 A 3, 38.2-604 B, 38.2-610 A, 38.2-1812, 38.2-1833, 38.2-1905 A, 38.2-1905C, 38.2-1906 D, 38.2-2202 A, 38.2-2202 B, 38.2-2208 B, 38.2-2212 D, 38.2-2212 E, 38.2-2212 F, 38.2-2220, and 38.2-2234 of the Code of Virginia; and 14 VAC 5-400-30, 14 VAC-5-400-40 A, 14 VAC-5-400-50C, 14 VAC-5-4700-70 A, 14-VAC-5-400-70 D, and 14 VAC-400-80 D of the Virginia Administrative Code.

1. We enclosed with this letter a check made payable to the Treasurer of Virginia in the amount of \$75,400.
2. We agree to comply with the corrective action plan set forth in the companies' letters of July 13, 2011.
3. We confirm that restitution was made in accordance with the companies' letter of July 13, 2011.
4. We further acknowledge the companies' right to a hearing before the State Corporation Commission in this matter and waive the right if this offer of settlement is accepted by the State Corporation Commission.

Letter to Mary Bannister  
September 8, 2011  
Page 2

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

Sincerely,

Bristol West Insurance Company  
Bristol West Casualty Insurance Company



\_\_\_\_\_  
(Signed)

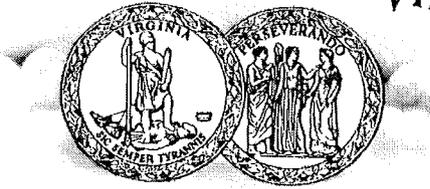
Audrey Sylvan  
\_\_\_\_\_  
(Type or Print Name)

President  
\_\_\_\_\_  
(Title)

9/12/11  
\_\_\_\_\_  
(Date)

# COMMONWEALTH OF VIRGINIA

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



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Bristol West Insurance Company and Bristol West Casualty Insurance Company have tendered to the Bureau of Insurance the settlement amount of \$75,400 by their check numbered 137787 dated September 9, 2011, copies of which are located in the Bureau's files.

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

111030167

AT RICHMOND, OCTOBER 19, 2011

CLERK'S OFFICE

COMMONWEALTH OF VIRGINIA

2011 OCT 19 P 3:36

At the relation of the

DOCUMENT CONTROL

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2011-00201

BRISTOL WEST INSURANCE COMPANY  
and  
BRISTOL WEST CASUALTY INSURANCE  
COMPANY,

Defendants

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance, it is alleged that the Defendants, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-305 A of the Code of Virginia by failing to provide the information required by statute in insurance policies; violated § 38.2-502 by misrepresenting the benefits, advantages, conditions or terms of an insurance policy; violated § 38.2-1905 C by assigning points under a safe-driver insurance policy to any vehicle other than the vehicle customarily driven by the operator responsible for incurring points; violated § 38.2-1906 D by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendants; violated §§ 38.2-2208 B, 38.2-2212 D, 38.2-2212 E, and 38.2-2212 F by failing to properly terminate policies; violated § 38.2-2220 by using forms which did not contain the precise language of the standard forms filed and adopted by the Commission; violated §§ 38.2-305 B, 38.2-517 A 3, 38.2-604 B, 38.2-610 A, 38.2-2202 A, 38.2-2202 B, and 38.2-2234 by failing to accurately provide the required notices to insureds; violated § 38.2-1905 A by

failing to notify insureds in writing when their policies were surcharged for at-fault accidents; violated §§ 38.2-1812 and 38.2-1833 for paying commissions to agencies that were not appointed by the Defendants; and violated §§ 38.2-510 A 1, 38.2-510 A 3 and 38.2-510 A 10, as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-50 C, 14 VAC 5-400-70 A, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D, 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 of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendants have committed the aforesaid alleged violations.

The Defendants have been advised of their right to a hearing in this matter, whereupon the Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein the Defendants have tendered to the Commonwealth of Virginia the sum of Seventy-five Thousand Four Hundred Dollars (\$75,400), waived their right to a hearing, agreed to comply with the Corrective Action Plan set forth in their letter to the Bureau of Insurance dated July 13, 2011, and confirmed that restitution was made in accordance with its letter to the Bureau dated July 13, 2011.

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

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

Accordingly, IT IS ORDERED THAT:

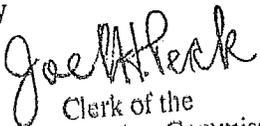
(1) The offer of the Defendants in settlement of the matter set forth herein be, and it is hereby, accepted; and

(2) The papers herein be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:

Christina Austin, Director – Compliance, Bristol West Insurance Group, 5990 West Creek Road, Independence Ohio 44131; and a copy shall be delivered to the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner Mary M. Bannister.

A True Copy  
Teste:

  
Clerk of the  
State Corporation Commission