



## COLE LAW FIRM

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March 9, 2017

Mr. Raymond G. Farmer  
Director of Insurance  
State of SC Dept of Insurance  
Via Email: [rfarmer@doj.sc.gov](mailto:rfarmer@doj.sc.gov)

Dear Mr. Farmer,

I greatly appreciate you and Deputy Director Buchanan taking the time to speak with me yesterday at the Governor's office. I think I have compiled everything we discussed regarding my client, Ms. Masters, except the actual complaint form, in the attached file.

As I was sure I was not dreaming about the reference to SCDOI policy; note Ms. Little's email sent December 3, 2014 (ITEM 1) indicating such action was approved by SCDOI. This email from Ms. Little to me forwarding Travelers' letter to her dated December 2, 2014 (ITEM 2) clearly indicates neither she, nor Travelers understand the Implied Consent Law in South Carolina. As Val Valenta indicated March 24, 2010 (ITEM 3) when we were preparing Bulletin Number 2010-03 (ITEM 4) "How is one 'convicted' of refusing to blow?"

You will also see my letter dated November 6, 2014 (ITEM 5) when I sent Ms. Master's a copy of Bulletin Number 2010-03 along with a complaint form for her to complete and send to the SC Department of Insurance. On November 12, 2014 Ms. Master's notified my office manager her insurance premiums were increasing \$600.00/year (because she had exercised her Implied Consent statue rights and enrolled in ADSAP). My office manager emailed my associate attorney, Michael Hallman, (ITEM 6) asking him to respond to Ms. Miller (actually not at Travelers hut at Allen Tate Insurance).

On November 19, 2014 (ITEM 7), Travelers indicated to Ms. Miller they were not using a DUI conviction to increase the rates "which is what the Bulletin covers" but "are using the conviction for refusal to take a sobriety test." The bulletin does NOT cover the issue of DUI, it covers the ramifications of Implied Consent. See Section 56-5-2950 (B) (1) the person does not have to take the test or give the samples....

In South Carolina one cannot be "convicted" of a refusal which is what Ms. Nesbitt of Travelers clearly states they are doing.

Thank you again for taking the time to meet with me Wednesday. Should you have any questions, please don't hesitate to call me.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Ronnie M. Cole', with a stylized, flowing script.

Ronnie M. Cole

RMC/jl

Attachments (7 items – listed in upper right corner)

cc: Kendall R. Buchanan, Deputy Director, Div Market and Consumer Services, SCDOT  
Catherine McNicoll, Director of Legal and Legislative Affairs, State House  
Danny Varat, Chief of Staff, State House

**Ronnie Cole**

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**From:** Cindy Little <CLittle@dois.sc.gov>  
**Sent:** Wednesday, December 03, 2014 5:24 PM  
**To:** Ronnie Cole  
**Subject:** SCDOI Complaint Response - Kathie W. Masters  
**Attachments:** img-203163755-0001.pdf

Mr. Cole,

Please see the attached response our Department received regarding your complaint on behalf of Kathie W. Masters. As indicated, Travelers states they are not in violation of the Bulletin 2010-03 or South Carolina law. Travelers states they are surcharging Ms. Masters' policy based on a violation of South Carolina's implied consent law as established in her MVR, and approved by our Department.

We are closing our file since we have no further jurisdiction in this matter. Thank you for the opportunity to address your complaint.

Respectfully,

Cindy Little  
SC Department of Insurance  
803-737-6180

  
**TRAVELERS**

Julia Nesbitt  
Customer Advocacy and Communications  
Travelers

(518) 761-4791 (telephone)  
(877) 854-4131 (fax)  
[jnesbitt@travelers.com](mailto:jnesbitt@travelers.com) (email)

333 Glen Street  
Glen Falls, NY 12801

December 2, 2014

Cindy Little, Market Conduct – Consumer Service  
South Carolina Department of Insurance  
PO Box 100105  
Columbia, SC 29202-3105

Re:	Your File:	153389
	Insured/Complainant:	Kathie W. Masters / Cole Law Firm
	Policy Number:	989470248 101 1
	Insuring Company:	The Travelers Home and Marine Insurance Company
	NAIC:	27998

Dear Ms. Little:

I am writing in response to your letter of November 20, 2014 regarding the above reference file. Mr. Cole has contacted your office regarding the premium increase on Ms. Master's automobile policy and we appreciate the opportunity to respond.

We respectfully submit that we are not in violation of the Department of Insurance Bulletin 2010-03 or South Carolina law. The Bulletin states in pertinent part:

*An insurer shall not increase premiums on, add surcharges to, or cancel the automobile insurance of a person charged with a violation of Section 56-1-286, 56-5-2930, 56-5-2933, 56-5-2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs based solely on the violation unless the person is convicted of the violation.*

Travelers is surcharging Ms. Masters policy based on a violation of South Carolina's implied consent law (S.C. Code Ann. 56-5-2950) as established in her MVR. We are not surcharging Ms. Masters based on a violation under Sections 56-1-286, 56-5-2930, 56-5-2933, 56-5-2945.

Please note that our intent to surcharge based on violations of South Carolina's implied consent law was originally filed and approved by the South Carolina Department of Insurance in 2005

under SERFF Tracking Number: SERT-6GNNCG626/00-00/0-00/00 and State Tracking Number: 183004-183005.

I trust this information is sufficient for you to close your file. However, please do not hesitate to contact me if you have further questions.

Sincerely,

*Julia Nesbitt*

Julia Nesbitt

Customer Advocacy and Communications

Travelers Personal Insurance

**Ronnie Cole**

**From:** Valenta, Val [Val.Valenta@scdmv.net]  
**Sent:** Wednesday, March 24, 2010 11:58 AM  
**To:** ronmcole@bellsouth.net  
**Subject:** RE: Comment re: Bulletin Number 2009-10

Ronnie,

I do not have any problem with "or cancel." Where is a 2950 refusal or reading over 0.15% addressed in 2951(N)?

X And how is one "convicted" of refusing to blow?

(N) An insurer may not increase premiums on, add surcharges to, or cancel the automobile insurance of a person charged with a violation of Section 56-1-286, 56-5-2930, 56-5-2933, or 56-5-2945, or another law of this State or another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or any other drug based solely on the violation unless he is convicted of the violation.

Val

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**From:** Ronnie Cole [mailto:ronmcole@bellsouth.net]  
**Sent:** Wednesday, March 24, 2010 9:02 AM  
**To:** Valenta, Val  
**Subject:** FW: Comment re: Bulletin Number 2009-10  
**Importance:** High

I received the following email from the SC Dept. of Insurance regarding a bulletin they were planning to send to producers and carriers. I wrote specifically the law to say that insurance carriers could not increase premiums on, add surcharges to, or cancel the insurance of a person charged with ALR unless convicted of the underlying violation.

It is our understanding the DMV (ie General Counsel's office) is telling the SC Department of Insurance it is not supported by the statute - Val there is no ambiguity in the law; in 2009 I had the words "or cancel" added for that purpose. Where do you get it is not supported by the legislation/statute?

Ronnie

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**From:** Rachel Harper [mailto:RHarper@doi.sc.gov]  
**Sent:** Wednesday, March 24, 2010 8:26 AM  
**To:** ronmcole@bellsouth.net  
**Subject:** RE: Comment re: Bulletin Number 2009-10

Jacque,

3/24/2010





# South Carolina Department of Insurance

MARK SANFORD  
Governor

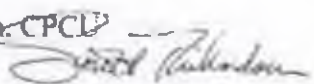
Capitol Center  
1201 Main Street, Suite 1000  
Columbia, South Carolina 29201

SCOTT RICHARDSON  
Director of Insurance

Mailing Address:  
P. O. Box 100105, Columbia, SC 29202-3105  
Telephone: (803) 737-6150

## BULLETIN NUMBER 2010-03

TO: All Insurers, Producers and Brokers Transacting the Business of Automobile Insurance in the State of South Carolina

FROM: Scott H. Richardson, *CPCU*   
Director

SUBJECT: 2008 S.C. Act No. 201 (R. 234, H. 3496)

DATE: March 24, 2010

### I. PURPOSE AND SCOPE OF THIS BULLETIN

The purpose of this bulletin is to remind insurers of provisions of 2008 S.C. Act No. 201, effective February 10, 2009, that relate to automobile insurance. It has come to the Department's attention that some insurers may not be in compliance with the provisions in S.C. Code § 56-5-2951(N) restricting an increase in premiums and prohibiting cancellation of automobile insurance policies under certain circumstances. That subsection provides:

An insurer may not increase premiums on, add surcharges to, or cancel the automobile insurance of a person charged with a violation of Section 56-1-286, 56-5-2930, 56-5-2933, or 56-5-2945, or another law of this State or another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or any other drug based solely on the violation unless he is convicted of the violation.

Insurers should also be aware of the provisions of S.C. Code § 56-1-286(V), which remained unchanged by Act 201:

Notwithstanding any other provision of law, no suspension imposed pursuant to this section is counted as a demerit or result in any insurance penalty for automobile insurance purposes if at the time he was stopped, the person whose license is suspended had an alcohol concentration that was less than eight one-hundredths of one percent.

### II. QUESTIONS

A copy of Act 201 is attached. Questions regarding this Bulletin should be submitted in writing to Carla Griffin, Manager of Market Services, via postal mail or by E-mail to [cgriffin@doi.sc.gov](mailto:cgriffin@doi.sc.gov).

Bulletins are the method by which the Director of Insurance formally communicates with persons and entities regulated by the Department. Bulletins are departmental interpretations of South Carolina insurance laws and regulations and provide guidance on the Department's enforcement approach. Bulletins do not provide legal advice. Readers should consult applicable statutes and regulations or contact an attorney for legal advice or for additional information on the impact of that legislation on their specific situation.

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Greenville, South Carolina 29601  
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Fax: (864) 231-9117



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Anderson, South Carolina 29621  
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Fax: (864) 231-9117  
www.colelawfirm.com

## COLE LAW FIRM

Ronnie M. Cole, Esquire  
rcole@colelawfirm.com

Michael O. Hallman, Esquire  
mhallman@colelawfirm.com

November 6, 2014

Ms. Kathie W. Masters  
106 Clydesdale Road  
Liberty, SC 29657

**RE: The State of South Carolina vs Kathie W. Masters**  
**Ticket No.: F 550065**  
**Charge: DUI**

Dear Ms. Masters:

Enclosed is a copy of the South Carolina Department of Insurance bulletin explaining that an insurer may not increase a person's premium unless they are convicted of driving under the influence.

Also enclosed is a South Carolina Department of Insurance complaint form. You can mail, fax or email the completed form.

Thank you for consulting me with this matter. As always, if you have any questions, please call me.

Very truly yours,

A handwritten signature in black ink, appearing to be 'RMC' followed by a flourish.

Ronnie M. Cole  
RMC/mi

COPY



**Ronnie Cole**

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**From:** Ronnie Cole  
**Sent:** Wednesday, November 12, 2014 3:16 PM  
**To:** Mike Hallman (mohallman123@gmail.com)  
**Subject:** Kathie Masters

Pickens/Laginestra case (you have the file). Travelers Insurance has increased her premium \$600/year because of her ALR (was sustained and she completed ADSAP). Please call Cindy Miller, of Travelers, at 704-829-1865 and explain that by statute, her insurance cannot be increased unless she is convicted of the underlying charge.

Ms. Masters can be reached at 864-843-5953.

I'd appreciate an update after you talk to them.

Jacque

**Ronnie Cole**

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**From:** Cindy Miller <cindy.miller@allentate.com>  
**Sent:** Wednesday, November 19, 2014 2:58 PM  
**To:** Ronnie Cole  
**Subject:** FW: Kathie Masters /Ticket #F 550065

Hi Mr. Cole...underwriters response below to charge on insurance.  
 Cindy

**From:** PIUnderwriting [mailto:PIUW@travelers.com]  
**Sent:** Wednesday, November 19, 2014 2:58 PM  
**To:** Cindy Miller  
**Subject:** RE: Kathie Masters /Ticket #F 550065

Cindy, we are not using a DUI, which is what the Bulletin covers.

We are using the conviction for refusal to take a sobriety test. 

Tiffany Thomas | Underwriter | Personal Lines  
 Travelers  
 W 877.878.2488 ext 6192 F 877.872.5334

**TRAVELERS** 

**From:** Cindy Miller [mailto:cindy.miller@allentate.com]  
**Sent:** Monday, November 17, 2014 2:02 PM  
**To:** UWTRTHOMAS  
**Subject:** FW: Kathie Masters /Ticket #F 550065

Tiffany: This is attorneys response.

Cindy Miller  
 Allen Tate Insurance Services, LLC  
 605 S. New Hope Road  
 Gastonia, N.C. 28054  
 (704)829-1865 Office  
 (980)233-3972 Efax



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