

**[IN ACCORDANCE WITH CALIFORNIA INSURANCE CODE (CIC) SECTION 12938,
THIS REPORT WILL BE MADE PUBLIC AND PUBLISHED ON THE
CALIFORNIA DEPARTMENT OF INSURANCE (CDI) WEBSITE]**

**WEBSITE PUBLISHED REPORT OF THE MARKET CONDUCT
EXAMINATION OF THE CLAIMS PRACTICES OF**

**ESURANCE PROPERTY AND CASUALTY INSURANCE
COMPANY**

NAIC # 30210 CDI # 3130-2

AS OF JANUARY 31, 2013

ADOPTED MARCH 3, 2014

STATE OF CALIFORNIA



**CALIFORNIA DEPARTMENT OF INSURANCE
MARKET CONDUCT DIVISION
FIELD CLAIMS BUREAU**

NOTICE

The provisions of Section 735.5(a) (b) and (c) of the California Insurance Code (CIC) describe the Commissioner's authority and exercise of discretion in the use and/or publication of any final or preliminary examination report or other associated documents. The following examination report is a report that is made public pursuant to California Insurance Code Section 12938(b)(1) which requires the publication of every adopted report on an examination of unfair or deceptive practices in the business of insurance as defined in Section 790.03 that is adopted as filed, or as modified or corrected, by the Commissioner pursuant to Section 734.1.

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DEPARTMENT OF INSURANCE

Consumer Services and Market Conduct Branch
Field Claims Bureau, 11th Floor
300 South Spring Street
Los Angeles, CA 90013



March 3, 2014

The Honorable Dave Jones
Insurance Commissioner
State of California
300 Capitol Mall
Sacramento, California 95814

Honorable Commissioner:

Pursuant to instructions, and under the authority granted under Part 2, Chapter 1, Article 4, Sections 730, 733, 736, and Article 6.5, Section 790.04 of the California Insurance Code; and Title 10, Chapter 5, Subchapter 7.5, Section 2695.3(a) of the California Code of Regulations, an examination was made of the claims handling practices and procedures in California of:

**Esurance Property and Casualty Insurance Company
NAIC # 30210**

NAIC Group # 0008

Hereinafter, the Company listed above also will be referred to as Esurance or the Company.

This report is made available for public inspection and is published on the California Department of Insurance website (www.insurance.ca.gov) pursuant to California Insurance Code section 12938(b)(1).

FOREWORD

The examination covered the claims handling practices of the aforementioned Company on private passenger automobile claims closed during the period from February 1, 2012 through January 31, 2013. The examination was made to discover, in general, if these and other operating procedures of the Company conform to the contractual obligations in the policy forms, the California Insurance Code (CIC), the California Code of Regulations (CCR) and case law. This report contains all alleged violations of laws that were identified during the course of the examination.

The report is written in a “report by exception” format. The report does not present a comprehensive overview of the subject insurer’s practices. The report contains a summary of pertinent information about the line of business examined, details of the non-compliant or problematic activities that were discovered during the course of the examination and the insurer’s proposals for correcting the deficiencies. When a violation that reflects an underpayment to the claimant is discovered and the insurer corrects the underpayment, the additional amount paid is identified as a recovery in this report. All unacceptable or non-compliant activities may not have been discovered. Failure to identify, comment upon or criticize non-compliant practices in this state or other jurisdictions does not constitute acceptance of such practices.

Alleged violations identified in this report, any criticisms of practices and the Company’s responses, if any, have not undergone a formal administrative or judicial process.

SCOPE OF THE EXAMINATION

To accomplish the foregoing, the examination included:

1. A review of the guidelines, procedures, training plans and forms adopted by the Company for use in California including any documentation maintained by the Company in support of positions or interpretations of the California Insurance Code, Fair Claims Settlement Practices Regulations, and other related statutes, regulations and case law used by the Company to ensure fair claims settlement practices.

2. A review of the application of such guidelines, procedures, and forms, by means of an examination of a sample of individual claims files and related records.

3. A review of the California Department of Insurance's (CDI) market analysis results; a review of consumer complaints and inquiries about this Company closed by the CDI during the period February 1, 2012 through January 31, 2013; a review of previous CDI market conduct claims examination reports on this Company; and a review of prior CDI enforcement actions.

The review of the sample of individual claims files was conducted at the offices of the Company in Rocklin, California.

EXECUTIVE SUMMARY OF CLAIMS SAMPLE REVIEWED

The private passenger automobile claims reviewed were closed from February 1, 2012 through January 31, 2013, referred to as the “review period”. The examiners randomly selected 235 claim files for examination. The examiners cited 128 alleged claims handling violations of the California Insurance Code and the California Code of Regulations from this sample file review.

Findings of this examination included the failure to ask if a child passenger restraint system was in use by a child during an accident or was in the vehicle at the time of a loss; failure to provide written notice of the need for additional time every 30 calendar days; failure to advise the insured in writing the reason that the driver of the insured vehicle was principally at fault for an accident; failure to conduct and diligently pursue a thorough, fair and objective investigation; failure to provide in writing the reasons for a denial of the claim in whole or in part including the factual and legal bases for each reason given; attempting to settle a claim by making a settlement offer that was unreasonably low; failure to accept or deny a claim within 40 calendar days of receipt of proof of claim; and failure to respond to communications within 15 calendar days.

RESULTS OF REVIEWS OF MARKET ANALYSIS, CONSUMER COMPLAINTS AND INQUIRIES, PREVIOUS EXAMINATIONS AND PRIOR ENFORCEMENT ACTIONS

Except as noted below, market analysis did not identify any specific issues of concern.

The Company was the subject of 36 California consumer complaints and inquiries closed from February 1, 2012 through January 31, 2013, in regard to the line of business reviewed in this examination. Of the complaints and inquiries, the CDI determined two complaints were justified. The Company failed to deny a claim in writing and the Company failed to include the California Department of Insurance information on a denial letter. The examiners focused on these issues during the course of the file review.

The previous claims examination reviewed a period from July 1, 2005 through June 30, 2006. The most significant noncompliance issues identified in the previous examination report were the Company's failure to ask if a child passenger restraint system was in use by a child during an accident; failure to provide written notice of the need for additional time every 30 calendar days; and failure, upon receiving proof of claim, to accept or deny the claim within 40 calendar days. These issues were identified as problematic in the current examination.

The following were also identified as significant noncompliance issues in the previous examination report but were not identified as problematic in the current examination: failure to implement reasonable standards for the prompt investigation and processing of claims; failure to disclose all benefits, coverage, time limits or other provisions of the insurance policy; and failure to supply the claimant with a copy of the estimate upon which the settlement was based.

The Company was not the subject of any prior California Department of Insurance enforcement actions.

DETAILS OF THE CURRENT EXAMINATION

Further details with respect to the examination and alleged violations are provided in the following tables and summaries:

ESURANCE PROPERTY & CASUALTY INSURANCE COMPANY SAMPLE FILES REVIEW			
LINE OF BUSINESS / CATEGORY	CLAIMS IN REVIEW PERIOD	SAMPLE FILES REVIEWED	NUMBER OF ALLEGED CITATIONS
Private Passenger Automobile / Physical Damage (includes collision and comprehensive)	20,819	70	47
Private Passenger Automobile / Liability (includes bodily injury and property damage)	20,120	70	40
Private Passenger Automobile / Uninsured Motorist (includes uninsured motorist bodily injury and uninsured motorist property damage)	1,670	70	33
Private Passenger Automobile / Medical Payments	646	25	8
TOTALS	43,255	235	128

TABLE OF TOTAL CITATIONS

Citation	Description of Allegation	Number of Alleged Citations
CIC §11580.011(e) *[CIC §790.03(h)(3)]	The Company failed to ask if a child passenger restraint system was in use by a child during an accident or was in the vehicle at the time of a loss that was covered by the policy.	40
CCR §2695.7(c)(1) *[CIC §790.03(h)(3)]	The Company failed to provide written notice of the need for additional time or information every 30 calendar days.	19
CCR §2632.13(e)(1) *[CIC §790.03(h)(3)]	The Company failed to properly advise the insured that the driver of the insured vehicle was principally at fault for an accident. The determination of fault letter did not specify the basis of the liability decision.	14
CCR §2695.7(d) *[CIC §790.03(h)(3)]	The Company failed to conduct and diligently pursue a thorough, fair and objective investigation.	7
CCR §2695.8(b)(4) *[CIC §790.03(h)(3)]	The Company failed to explain in writing the determination of the cost of a comparable vehicle at the time the settlement offer was made. Determination of the actual cash value (ACV) was not explained.	5
CIC §790.03(h)(1)	The Company misrepresented to claimants pertinent facts or insurance policy provisions relating to any coverage at issue.	4
CCR §2695.7(b) *[CIC §790.03(h)(4)]	The Company failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days.	4
CCR §2695.7(b)(1) *[CIC §790.03(h)(3)]	The Company failed to deny, dispute or reject a third party claim in writing.	4
CCR §2695.7(g) *[CIC §790.03(h)(5)]	The Company attempted to settle a claim by making a settlement offer that was unreasonably low.	4
CCR §2695.5(b) *[CIC §790.03(h)(2)]	The Company failed to respond to communications within 15 calendar days.	3
CCR §2695.7(b)(3) *[CIC §790.03(h)(3)]	The Company failed to include a statement in its claim denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance.	3
CCR §2695.7(h) *[CIC §790.03(h)(5)]	The Company failed, upon acceptance of the claim, to tender payment within 30 calendar days.	3

Citation	Description of Allegation	Number of Alleged Citations
CCR §2695.7(b)(1) *[CIC §790.03(h)(13)]	The Company failed to provide in writing the reasons for the denial of the claim in whole or in part including the factual and legal bases for each reason given.	2
CCR §2695.7(d) [CIC §790.03(h)(3)]	The Company persisted in seeking information not reasonably required for or material to the resolution of a claims dispute.	2
CCR §2695.8(b)(1)(A) *[CIC §790.03(h)(3)]	The Company failed to inform the claimant of his or her right to seek a refund of the unused license fees from the Department of Motor Vehicles.	2
CCR §2695.8(b)(1)(A) *[CIC §790.03(h)(3)]	The Company failed to disclose in writing to the claimant that notice of the salvage retention by the claimant must be provided to the Department of Motor Vehicles and that this notice may affect the loss vehicle's future resale and/or insured value.	2
CCR §2695.8(f) *[CIC §790.03(h)(3)]	The Company failed to supply the claimant with a copy of the estimate upon which the settlement was based.	2
CIC §790.03(h)(3)	The Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies.	1
CIC §1871.3(b) *[CIC §790.03(h)(3)]	The Company failed to properly instruct the insured regarding the signing of the theft affidavit.	1
CIC §11580.011(e) *[CIC §790.03(h)(5)]	The Company failed to replace the child passenger restraint system that was in use by a child during the accident or if it sustained a covered loss while in the vehicle.	1
CCR §2632.13(e)(2) *[CIC §790.03(h)(3)]	The Company failed to properly advise the insured that the driver of the insured vehicle was principally at fault for an accident. The determination of fault letter was not sent.	1
CCR §2695.3(a) *[CIC §790.03(h)(3)]	The Company failed to maintain all documents, notes and work papers which reasonably pertain to each claim in such detail that pertinent events and the dates of the events can be reconstructed.	1
CCR §2695.4(a) *[CIC §790.03(h)(1)]	The Company failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy.	1

Citation	Description of Allegation	Number of Alleged Citations
CCR §2695.8(b)(4) *[CIC §790.03(h)(3)]	The Company failed to fully itemize in writing the determination of the cost of a comparable vehicle at the time the settlement offer was made. Itemization of all components of the settlement was not provided.	1
CCR §2695.8(i) *[CIC §790.03(h)(3)]	The Company failed to fully explain the basis for any adjustment to the claimant in writing.	1
Total Number of Citations		128

***DESCRIPTONS OF APPLICABLE
UNFAIR CLAIMS SETTLEMENT PRACTICES**

- CIC §790.03(h)(1) The Company misrepresented to claimants pertinent facts or insurance policy provisions relating to any coverage at issue.
- CIC §790.03(h)(2) The Company failed to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.
- CIC §790.03(h)(3) The Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies.
- CIC §790.03(h)(4) The Company failed to affirm or deny coverage of claims within a reasonable time after proof of loss requirements had been completed and submitted by the insured.
- CIC §790.03(h)(5) The Company failed to effectuate prompt, fair, and equitable settlements of claims in which liability had become reasonably clear.
- CIC §790.03(h)(13) The Company failed to provide promptly a reasonable explanation of the basis relied upon in the insurance policy, in relation to the facts or applicable law, for the denial of a claim or for the offer of a compromise settlement.

TABLE OF CITATIONS BY LINE OF BUSINESS

<p align="center">PRIVATE PASSENGER AUTOMOBILE 2011 Written Premium: \$166,145,209</p> <p>AMOUNT OF RECOVERIES \$61,627.63</p>	<p align="center">NUMBER OF CITATIONS</p>
CIC §11580.011(e) [CIC §790.03(h)(3)]	40
CCR §2695.7(c)(1) [CIC §790.03(h)(3)]	19
CCR §2632.13(e)(1) [CIC §790.03(h)(3)]	14
CCR §2695.7(d) [CIC §790.03(h)(3)]	7
CCR §2695.8(b)(4) [CIC §790.03(h)(3)]	5
CIC §790.03(h)(1)	4
CCR §2695.7(b) [CIC §790.03(h)(4)]	4
CCR §2695.7(b)(1) [CIC §790.03(h)(3)]	4
CCR §2695.7(g) [CIC §790.03(h)(5)]	4
CCR §2695.5(b) [CIC §790.03(h)(2)]	3
CCR §2695.7(b)(3) [CIC §790.03(h)(3)]	3
CCR §2695.7(h) [CIC §790.03(h)(5)]	3
CCR §2695.7(b)(1) [CIC §790.03(h)(13)]	2
CCR §2695.7(d) [CIC §790.03(h)(3)]	2
CCR §2695.8(b)(1)(A) [CIC §790.03(h)(3)]	2
CCR §2695.8(b)(1)(A) [CIC §790.03(h)(3)]	2
CCR §2695.8(f) [CIC §790.03(h)(3)]	2
CIC §790.03(h)(3)	1
CIC §1871.3(b) [CIC §790.03(h)(3)]	1
CIC §11580.011(e) [CIC §790.03(h)(5)]	1
CCR §2632.13(e)(2) [CIC §790.03(h)(3)]	1
CCR §2695.3(a) [CIC §790.03(h)(3)]	1
CCR §2695.4(a) [CIC §790.03(h)(1)]	1
CCR §2695.8(b)(4) [CIC §790.03(h)(3)]	1
CCR §2695.8(i) [CIC §790.03(h)(3)]	1
TOTAL	128

SUMMARY OF EXAMINATION RESULTS

The following is a brief summary of the criticisms that were developed during the course of this examination related to the violations alleged in this report.

In response to each criticism, the Company is required to identify remedial or corrective action that has been or will be taken to correct the deficiency. The Company is obligated to ensure that compliance is achieved.

Any noncompliant practices identified in this report may extend to other jurisdictions. The Company was asked if it intends to take appropriate corrective action in all jurisdictions where applicable. The Company intends to implement corrective actions in all jurisdictions.

Money recovered within the scope of this report was \$8,369.62 as described in sections number 4c, 4d, 6b, 9 and 20 below. Following the findings of the examination, a closed claims survey as described in section 1 below was conducted by the Company resulting in additional payments of \$53,258.01 as of July 28, 2013. As a result of the examination, the total amount of money returned to claimants within the scope of this report was \$61,627.63.

PRIVATE PASSENGER AUTOMOBILE

1. **In 40 instances, the Company failed to ask if a child passenger restraint system was in use by a child during an accident or was in the vehicle at the time of a loss that was covered by the policy.** The Department alleges these acts are in violation of CIC §11580.011(e) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees with these findings. The following are the corrective measures the Company implemented.

- The Company amended its policy language regarding child restraint systems and filed the update with the California Department of Insurance on May 2, 2013.
- The "Explanation of Benefits" letter, "Attorney Acknowledgement" letters and "Contact" letters have been updated to ask if a child restraint system was in use at the time of the loss or if there was a child restraint system in the vehicle, not in use but damaged, in the loss.
- The templates used by claims personnel have been updated to ask if a child restraint system was in use at the time of the loss or if there was a child restraint system in the vehicle, not in use but damaged, in the loss.
- The Company conducted training, on April 30, 2013, with all claims personnel who handle California claims to ensure compliance with the referenced code.

To address past harm, the Company conducted a self-survey of all collision, property damage, uninsured motorist property damage and comprehensive claims that have been paid to ensure the questions regarding whether a child restraint system was in use at the time of the loss, or if there was a child restraint system in the vehicle that was not in use but was damaged in the loss. If the Company received a positive reply, the Company reimbursed the claimant for the child seat in use or not in use and damaged. This was accomplished via a letter sent by email to all claimants in the above referenced categories. In instances where the Company did not have an email address, the Company sent the letter by regular mail. The Company sent a total of 71,103 letters of which 47,416 were sent by email and 23,687 by regular mail. The Company issued 548 payments for a total amount of \$53,258.01. The Company will continue to respond to any inquiry it may receive from a claimant that was a part of this audit and will handle each claim accordingly.

2. **In 19 instances, the Company failed to provide written notice of the need for additional time or information every 30 calendar days.** The Department alleges these acts are in violation of CCR §2695.7(c)(1) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees with these findings. Esurance states that to ensure compliance with CCR §2695.7(c)(1), the National Express Team has implemented the following steps to ensure against such

occurrences: a diary is set for a member of the Repair Resolution team to follow-up every 30 days after the Company becomes aware of the need for additional time; a diary will remain on the file until the claim is resolved; the Company will conduct targeted audits to ensure additional time letters are being sent. Additionally, training was provided to all Claims Representatives regarding this issue on April 30, 2013.

3. In 14 instances, the Company failed to state the basis of the liability determination in its determination of fault notice. The Department alleges these acts are in violation of CCR §2632.13(e)(1) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees with these findings. The Company states that its standard practice is to specify the basis of the liability decision. The Company believes these are isolated incidents. To ensure compliance with CCR §2632.13(e)(1), training was provided to all Claims Representatives on April 30, 2013. Also, the National Express Team has modified its template for the "principally at-fault" letter to ensure that a specific reason is provided. The claims associates handling the closed claims within the review period were counseled, as well, on this California regulation and the Company has sent an updated "principally at-fault" letter to each insured.

4. In seven instances, the Company failed to conduct and diligently pursue a thorough, fair and objective investigation. The Department alleges these acts are in violation of CCR §2695.7(d) and are unfair practices under CIC §790.03(h)(3).

4a. In three instances the Company did not review the claim file for three months after receipt of the claim, made no attempt to contact claimants after receiving their residence address and closed a file prematurely.

Summary of the Company's Response to 4a: The Company agrees with these findings. The Company believes these to be isolated incidents. However, the Company conducted training for its Claims Representatives on this issue on May 30, 2013. To ensure compliance, the Company will also conduct periodic audits.

4b. In one instance, the Company failed to set up an inspection of the insured's vehicle for approximately one month resulting in a delay.

Summary of the Company's Response to 4b: The Company agrees with this finding. It is the Company's normal practice to schedule an inspection within a reasonable time after receiving notice of a claim. The Company believes this to be an isolated incident. The Company provided training to the handling Claims Representative on April 8, 2013. To ensure compliance, the Company will also conduct periodic audits.

4c. In one instance, upon receipt of additional medical bills, the Company failed to follow up with the insured regarding payment of the bills. As a result, the claim was closed with no follow up or correspondence sent to the insured.

Summary of the Company's Response to 4c: The Company agrees with this finding. As a result of the examination, the Company issued a payment totaling \$2,455.00 for services rendered to the insured.

4d. In one instance, upon receipt of the insured's medical bill for out of pocket expenses, the Company failed to investigate or follow up regarding the amount paid by the insured's personal insurance to see if this was also owed as part of the open ended medical agreement.

Summary of the Company's Response to 4d: The Company agrees with this finding. As a result of the examination, the claim representative followed up with the insured who confirmed there were no additional out of pocket expenses. The claim representative also followed up with the medical provider. The provider indicated it would send the payment back to the insured's personal insurance and then send the bill directly to the Company. The Company issued a check to Sharp Memorial Hospital on 05/21/2013 in the amount of \$2869.75.

4e. In one instance, the Company contacted the medical providers to retrieve the diagnostic codes for the medical bills. The Company was provided, by the insured, the requested medical authorization and listing of providers pursuant to the medical payment packet sent to the insured. The Company failed to obtain the necessary information with the authorization. Additionally, after the Company contacted the medical providers initially, the file was closed without any further follow up.

Summary of the Company's Response to 4e: The Company agrees with this finding and confirms the claim file was closed prematurely. Esurance states that it contacted the medical provider by phone, but should have sent a letter to the medical provider requesting actual bills as well as follow-up letters every 30 days if the billing detail was not received. Esurance's oversight in closing the file prematurely led to the breakdown in following up for the medical bills. The Company provided training on these issues and conducted a review of files, completed on May 31, 2013, to ensure that the files are being properly handled.

5. In five instances, the Company failed to explain in writing the determination of the cost of a comparable vehicle at the time the settlement offer was made. Determination of the actual cash value (ACV) was not explained. The Department alleges these acts are in violation of CCR §2695.8(b)(4) and are unfair practices under CIC §790.03(h)(3).

5a. In two instances, the Company's total loss letter itemized the components of the total loss settlement but there is no evidence the Company explained how it determined the "actual cash value". It is the Company's procedure to include the total

loss evaluation report with the total loss letter for the explanation. However, in these cases the Company did not reference the total loss evaluation report written by CCC Information Services, Inc. in the letter, nor did the letter include the total loss evaluation report written by CCC Information Services, Inc. as an enclosure. The file notes do not reflect that the evaluation report written by CCC Information Services, Inc. was sent to the insured in any form.

Summary of the Company's Response to 5a: The Company agrees that the total loss letter does not specifically explain the determination of the ACV. Although there is no "enclosure" noted on the letter, it is the Company's standard practice to provide every vehicle owner with a copy of the evaluation report written by CCC Information Services, Inc. at the time an offer is made. The evaluation report contains further explanation of how the ACV is determined. Based on this, the Company believes that a copy of the evaluation report was provided to the insured with the letter in these cases.

To ensure compliance with CCR §2695.8(b)(4), the Company has changed the total loss letter by adding the word "Enclosure" permanently at the bottom of the first page and revise the paragraph to read:

"Our process of evaluating your vehicle's value involves using a company called CCC which uses a database to compare it to similarly equipped vehicles of the same year, make, and model with comparable pre-loss condition available in your local market area. When establishing a value, it was necessary to make some adjustments due to the pre-loss conditions of your vehicle in order to arrive at an actual cash value. These deductions and/or additions are for mileage, options, and condition. A copy of the CCC report is included for your review."

5b. In two instances, the CCC Information Services, Inc. valuation provided to the insured, included a line item for unrelated prior damage, but the written estimate for the unrelated prior damage was not provided to the insured nor was an explanation of the reason for deducting 50% of unrelated damage from the total loss explained to the insured.

Summary of the Company's Response to 5b: The Company agrees the unrelated prior damage estimate was not sent to the insured. As of April 30, 2013, unrelated prior damage estimates will be provided to owners of total loss vehicles.

5c. In one instance, the Company settled the claim with the named insured for the uninsured motorist property damage (UMPD) limit of \$3,500; the Company did not provide an explanation of the basis of the settlement to the insured.

Summary of the Company's Response to 5c: The Company agrees with this finding. The Company provided training to all claims representatives regarding this issue on April 30, 2013.

6. In four instances, the Company misrepresented to claimants pertinent facts or insurance policy provisions relating to coverage at issue. The Department alleges these acts are in violation of CIC §790.03(h)(1).

6a. In two instances, the Company wrote estimates for unrelated prior damage. The Company's letters outlining the total loss breakdowns identified no deduction for the unrelated damage although the settlements contained deductions.

Summary of the Company's Response to 6a: The Company agrees with these findings. The unrelated prior damage is reflected in the valuation report but not outlined in the letter. The Company provided additional training to the handling Claims Representative on April 30, 2013.

6b. In one instance, the Company informed the insured that since the car seat was not occupied, replacement would not be considered. This statement is a misrepresentation of a pertinent fact related to the insurer's obligations pursuant to CIC §11580.011.

Summary of the Company's Response to 6b: The Company agrees with this finding. The Company attempted to contact the insured via email and by phone on April 12, 2013, to inquire as to the type of car seat that was in the vehicle at the time of loss. The Company was unsuccessful in its attempt to contact the insured so the Company issued a check in the amount of \$50.00 for the car seat. The Company advised the insured in a letter that if the car seat costs more than \$50.00, the Company will reimburse the insured for the difference.

6c. In one instance, the Company sent the insured a "Principally At-Fault" letter dated October 2, 2012, yet the file notes on October 2, 2012, and the "Liability" screen stated no fault was placed on the insured driver.

Summary of the Company's Response to 6c: The Company agrees with this finding. An updated at-fault letter should have been sent out to both the insured and the claimant, but neither occurred. An amended at-fault letter was sent to the insured advising that he was not at fault for this loss. The Claims Representatives have been advised to send out an amended liability letter whenever a liability decision is overturned.

7. In four instances, the Company failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days. In one instance, a subrogation demand was not paid within 40 days. In one instance, the third party's bodily injury claim was not accepted or denied within 40 days. In one instance, a medical bill was not paid within 40 days of receipt of the claim. In one instance, the Company confirmed

the other party was uninsured on January 12, 2012, yet the UMPD payment was not issued until March 7, 2012. (88 days after uninsured knowledge and 83 days after proof of claim). The Department alleges these acts are in violation of CCR §2695.7(b) and are unfair practices under CIC §790.03(h)(4).

Summary of the Company's Response: The Company agrees with these findings. In accordance with CCR §2695.7(b), it is the Company's standard practice to accept or deny a claim within 40 days. The Company believes that these are isolated occurrences. In regard to the occurrence with the medical bill, the Company will begin conducting targeted audits to ensure written documentation is sent within 40 days of accepting, rejecting or requesting additional documentation to issue payment on the claim. In regard to all four occurrences, on April 30, 2013, training was provided to all Claims Representatives regarding this issue.

8. In four instances, the Company failed to deny, dispute or reject a third party claim in writing. The Department alleges these acts are in violation of CCR §2695.7(b)(1) and are unfair practices under CIC §790.03(h)(3).

8a. In three instances, the Company failed to issue a partial denial letter to the third party claimant.

Summary of the Company's Response to 8a: The Company agrees with these findings. It is the Company's standard practice to issue a notice of partial denial. The Company believes these are isolated incidents. On April 30, 2013, the Company provided training to the handling Claims Representative regarding this issue.

8b. In one instance, the Company failed to send a denial letter to the third party claimant.

Summary of the Company's Response to 8b: The Company agrees with this finding. It is the Company's standard practice to send the third-party claimant a letter of denial. The Company believes that this is an isolated event. On April 19, 2013, the Company provided training to the handling claims representative regarding this issue.

9. In four instances, the Company attempted to settle a claim by making a settlement offer that was unreasonably low. The Department alleges this act is in violation of CCR §2695.7(g) and is an unfair practice under CIC §790.03(h)(5).

9a. In one instance, the Company issued payment of \$1,750 or 50% of the UMPD limit of \$3,500 even though the ACV exceeded the limit. As liability was assessed at 50%, payment was owed at 50% of the total ACV not to exceed the limit of \$3,500. As such, the payment of \$1,750.00 was an underpayment for this claim.

Summary of the Company's Response to 9a: The Company agrees with this finding. The Company re-opened the claim and issued a check in the amount of \$532.28 on April 10, 2013, as 50% of ACV owed.

9b. In one instance, the Company applied a \$250.00 deductible to UMPD to which no deductible applies. As a result, the insured's UMPD settlement resulted in an underpayment.

Summary of the Company's Response to 9b: The Company agrees with this finding. On April 1, 2013, the Company issued a check in the amount of \$153.39 to the insured.

9c. In one instance, the Company deducted prior damage from the insured's total loss settlement. The CCC evaluation had already considered the prior damages in the valuation which resulted in a low settlement.

Summary of the Company's Response to 9c: The Company agrees with this finding. As a result of the examination, payment was issued to the insured in the amount of \$197.28.

9d. In one instance, depreciation and betterment were taken on property items not normally subject to depreciation in an auto third party liability claim. In addition, the age and condition of the damaged items were not clearly documented in the claim file.

Summary of the Company's Response to 9d: The Company states it is taking remedial measures as a result of these findings. The Company believes the amount withheld was appropriate; however, The Company did not thoroughly document its conclusion or communicate such to the claimant. A check for the supplemental payment in the amount of \$1,961.92 was issued on April 09, 2013. In future circumstances in which depreciation or betterment is applicable to an item or items, the Company will include greater detail outlining the calculation of depreciation including the expectation of replacement within the item's useful life.

10. In three instances, the Company failed to respond to communications within 15 calendar days. The Department alleges these acts are in violation of CCR §2695.5(b) and are unfair practices under CIC §790.03(h)(2).

Summary of the Company's Response: The Company agrees with these findings. In accordance with CCR §2695.5(b), it is the Company's standard practice to respond to all inquiries within 15 calendar days. The Company believes that these are isolated incidents. The Company provided training, on April 30, 2013, to its Claims Representatives to ensure that all communications are responded to within 15 days.

11. In three instances, the Company failed to include a statement in its claim denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance. The Department alleges these acts are in violation of CCR §2695.7(b)(3) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees with these findings. The Company uses a standard template which includes the language required by CCR §2695.7(b)(3). In these instances, the claim representatives deleted the required language. The Company believes that these are isolated incidents. The Company provided the claims representatives with training regarding this issue on April 30, 2013. The Company also explored whether their system has the ability to make this language a restricted field within its claims system so that the language cannot be removed; however, their system will not allow this. The Company has made this issue a part of the claims internal audit program

12. In three instances, the Company failed, upon acceptance of the claim, to tender payment within 30 calendar days. The Department alleges these acts are in violation of CCR §2695.7(h) and are unfair practices under CIC §790.03(h)(5).

Summary of the Company's Response: The Company agrees with these findings. It is the Company's normal practice to tender payment within 30 calendar days of acceptance of the claim. The Company believes that these are isolated incidents. However, on April 30, 2013, the Company provided training to the handling Claims Representative regarding this issue.

13. In two instances, the Company failed to provide in writing the reasons for the denial of the claim in whole or in part including the factual and legal bases for each reason given. The Department alleges these acts are in violation of CCR §2695.7(b)(1) and are unfair practices under CIC §790.03(h)(13).

13a. In one instance, the Company failed to provide the insured with the basis for the partial denial of the \$320.00 in storage fees.

Summary of the Company's Response to 13a: The Company agrees with this finding. The insured was informed of the rationale verbally in a phone call with the Claims Representative, but not in writing. The Company believes that this is an isolated incident. However, on April 30, 2013, the Company provided training to the handling Claims Representative regarding this issue.

13b. In one instance, the insured had a solo car loss. The insured submitted a claim to the Company and the Company opened a claim under UMPD coverage since there is no collision coverage. The notes indicate a template was used by the Company representative. The Company representative indicated the insured was advised of no collision coverage. There is no denial of coverage letter in the file yet the insured thought he had collision coverage for this vehicle and this loss as indicated by submission of a claim for a solo car loss.

Summary of the Company's Response to 13b: The Company agrees with this finding. The claims associates who handle claims initially are required to send a "no collision" letter to the insured and contact the insured to directly communicate a lack of coverage. If the insured is unavailable, a voice mail message is left regarding the lack

of coverage along with a request to contact the initial handling claims associates for any questions or concerns. This process has already been implemented and is being utilized. Should the insured dispute the existence of any particular coverage, the file is triaged to a Branch for further handling. On April 30, 2013, the Company provided training to the handling Claims Representative regarding this issue.

14. In two instances, the Company persisted in seeking information not reasonably required for or material to the resolution of a claims dispute. The Department alleges these acts are in violation of CCR §2695.7(d) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees with these findings. In these instances, the Company withheld reimbursement for a particular item until an original receipt was received. The Company has revised its process to now look for another avenue in providing proof of claim for reimbursement to ensure that it does not seek information not reasonably required for or material to the resolution of a claim dispute.

15. In two instances, the Company failed to disclose in writing to the claimant that notice of the salvage retention by the claimant must be provided to the Department of Motor Vehicles and that this notice may affect the loss vehicle's future resale and/or insured value. The Department alleges these acts are in violation of CCR §2695.8(b)(1)(A) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees with these findings. It is the Company's standard practice to provide a written disclosure that notice of salvage retention must be provided to the DMV. The Company believes that this is an isolated incident. On April 30, 2013, the Company provided training to the handling Claims Representative regarding this issue.

16. In two instances, the Company failed to inform the claimant of his or her right to seek a refund of the unused license fees from the Department of Motor Vehicles. The Department alleges these acts are in violation of CCR §2695.8(b)(1)(A) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees with these findings. It is the Company's standard practice to provide a written disclosure that the claimant has a right to seek a refund of unused license fees from the DMV. The Company provided training to the Total Loss Claims Representatives regarding this issue on April 30, 2013.

17. In two instances, the Company failed to supply the claimant with a copy of the estimate upon which the settlement was based. In one instance the Company failed to provide the claimant with a copy of the adjusted estimate audited and reduced by Comsearch, the Company's audit vendor. In the other instance, the Company failed to provide the claimant with a copy of the supplemental estimate. The Department

alleges these acts are in violation of CCR §2695.8(f) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees with these findings. It is the Company's standard practice to provide the claimant with a copy of the estimate and, if warranted, a copy of a supplemental estimate. The Company believes these are isolated incidents. The Company provided training to the handling claims representative regarding this issue on April 30, 2013.

18. In one instance, the Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies. Specifically, the process for itemizing holdbacks on total loss vehicles until total loss vehicle documents are received was not followed. The Department alleges this act is in violation of CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees with this finding. As a process, the amounts withheld are discussed with the owner prior to payment. The owners are informed that the Company withholds payment of the salvage value portion of the total loss until such time that the owner sends back the appropriate paper work which allows the transfer of ownership of the vehicle for disposition of the salvage. In following this process, the Company is able to make a partial payment to owners of vehicles sooner which then will allow them to begin the process of replacing their total loss vehicle at an earlier date. The Company believes this process lessens the overall impact of the total loss claim on the owner of the vehicle. Moving forward, the Company's total loss adjusters will send an itemized letter to an insured or claimant outlining the settlement amounts including any monies withheld for salvage if the owner of the vehicle is retaining the salvage of the vehicle or in the process of making the decision to retain the vehicle or not. Training was conducted on May 31, 2013

19. In one instance, the Company failed to properly instruct the insured regarding the signing of the theft affidavit. The insured was not informed that, in lieu of notarization, the form could be signed in the presence of the insurance agent, broker, adjuster, or other claims representative. Specifically, the "Affidavit of Theft" states the signature "MUST" be notarized or signed in front of an Esurance adjuster or Claim representative. However, the cover letter with the "Affidavit of Theft" states the signature "MUST" be notarized which is contradictory to the actual "Affidavit of Theft". The Department alleges this act is in violation of CIC §1871.3(b) and is an unfair practice under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees with this finding. The Company has determined that the Company's template cover letter does advise the claimant that in lieu of notarization, the Affidavit of Vehicle Theft may be signed in the presence of an Esurance employee. The Company believes that in this instance, the Claims Representative removed this language from the template. The Company provided a reminder to its staff that the template letter should not be revised.

20. In one instance, the Company failed to reimburse the claimant for the cost of purchasing a new child passenger restraint system that was in use by a child during the accident or if it sustained a covered loss while in the vehicle. Specifically, the Company was notified by the insured driver that there were three child passenger restraint systems being occupied in the vehicle when the collision occurred. The claim representative remarked that she would wait for the receipts before reimbursement but payment was never made. The Department alleges this act is in violation of CIC §11580.011(e) and is an unfair practice under CIC §790.03(h)(5).

Summary of the Company's Response: The Company agrees with this finding. As a result of the findings of the examination, the Company re-opened the claim and issued a check in the amount of \$150.00 to the insured. As corrective actions, the Company amended its policy to mirror CIC §11580.011, updated its "explanation of benefits" letters, "contact" letters and "attorney acknowledgement" letters to inquire if a child passenger restraint system was in the vehicle at the time of loss, updated the templates used by its claims personnel to inquire if a child passenger restraint system was in use during the accident or if a child passenger restraint system was in the vehicle and damaged at the time of the accident and conducted training to all of its claims personnel that handle California losses to ensure compliance with CIC §11580.011. This training was conducted on April 30, 2013.

21. In one instance, the Company failed to properly advise the insured that the driver of the insured vehicle was principally at-fault for an accident. This instance involved the failure to send the determination of fault letter. Specifically, a new determination of fault letter was not sent after a reassessment of liability. The insured driver disputed the liability decision in writing on October 12, 2012. The dispute was sent to an employee of the Company other than the original claim representative who made the decision to place 50% liability on the insured driver instead of the 100% originally assessed. The Department alleges this act is in violation of CCR §2632.13(e)(2) and is an unfair practice under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees with this finding. The Company sent a revised "Principally at-Fault" letter to the insured with the Company provided training to its Claim Representatives to ensure a new "Principally at-Fault" letter is sent if the liability decision is re-assessed. The training took place on April 30, 2013.

22. In one instance, the Company failed to maintain all documents, notes and work papers which reasonably pertain to each claim in such detail that pertinent events and the dates of the events can be reconstructed. Specifically, a file note on March 7, 2012, states the Company sent a denial of liability letter to the other party but no letter could be found. The Department alleges this act is in violation of CCR §2695.3(a) and is an unfair practice under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees with this finding. On April 30, 2013, the Company provided training to its Claims Representatives on this issue.

23. In one instance, the Company failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy. Specifically, when UMPD coverage was confirmed and available, the insured was not informed that he would not be responsible for his deductible. The Department alleges this act is in violation of CCR §2695.4(a) and is an unfair practice under CIC §790.03(h)(1).

Summary of the Company's Response: The Company agrees the file does not specifically reflect that the insured was told there was no UMPD deductible. A discussion was held on April 2, 2013, with the claims representative and it was explained that the notes in the file need to be clear regarding the explanation given to the policy holders regarding coverage. A follow up letter was sent to the policy holder on April 8, 2013.

24. In one instance, the Company failed to fully itemize in writing the determination of the cost of a comparable vehicle at the time the settlement offer was made. Itemization of all components of the settlement was not provided. The Department alleges this act is in violation of CCR §2695.8(b)(4) and is an unfair practice under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees with this finding. On April 30, 2013, the Company provided additional training to the handling Claims Representative.

25. In one instance, the Company failed to fully explain the basis for any adjustment to the claimant in writing. Specifically, the third party claimant repair estimate included a deduction of \$118.33 for betterment and tax. The Company did not explain this to the third party claimant. The Department alleges this act is in violation of CCR §2695.8(i) and is an unfair practice under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees that the notes from the appraiser do not clearly reflect that betterment was explained to the third party claimant. The Company states that the manager of the associate involved in this inquiry reviewed the file and confirmed that the betterment was explained to the claimant, but the associate neglected to document same. The manager revisited Esurance's Appraiser Guidelines with the associate, which call for proper documentation of such conversations with all insureds and claimants. The manager also reviewed this case immediately with the rest of his team and his counterparts across the department to ensure that everyone is equally aware of this expectation. In addition, management added the appropriate verbiage addressing this expectation in the Associate Guidelines in the "Betterment" section and in the "Appraisal Notes" section.