

**[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**

**LANCER INSURANCE COMPANY
NAIC # 26077 CDI # 1304-5**

AS OF NOVEMBER 30, 2014

ADOPTED MAY 31, 2016

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



May 31, 2016

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:

**Lancer Insurance Company
NAIC #26077**

Group NAIC #0456

Hereinafter, the Company listed above also will be referred to as Lancer, LIC 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 Commercial Automobile claims closed during the period from December 1, 2013 through November 30, 2014. 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 lines 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. While this report contains violations of law that were cited by the examiner, additional violations of CIC § 790.03, or other laws, not cited in this report may also apply to any or all of the non-compliant or problematic activities that are described herein.

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 claim 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 December 1, 2013 through November 30, 2014; 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 claim files was conducted at the offices of the Company in Vancouver, Washington.

EXECUTIVE SUMMARY OF CLAIMS SAMPLE REVIEWED

The Commercial Automobile claims reviewed were closed from December 1, 2013 through November 30, 2014, referred to as the “review period”. The examiners randomly selected 142 LIC claim files for examination. The examiners cited 158 alleged claims handling violations of the California Insurance Code (CIC) and the California Code of Regulations (CCR) from this sample file review.

Findings of this examination included: the failure to fully itemize and explain in writing the cost of a comparable vehicle at the time the total loss settlement offer is made; the failure to disclose that the salvage may affect the loss vehicle’s future resale and/or insured value and failure to inform the claimant of his or her right to seek a refund of the unused license fees related to the salvage retention; the failure to include the one-time fees incident to transfer of evidence of ownership of a comparable vehicle; the failure to notify the insured that the file will be reopened if the Company is notified within 35 days that the insured cannot purchase a comparable automobile for the settlement amount offered or paid; the failure to include applicable taxes in the total loss settlement; and the failure to include fees incident to transfer of the vehicle to salvage status.

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 three California consumer complaints and inquiries closed from December 1, 2013 through November 30, 2014, in regard to the lines of business reviewed in this examination. Of the complaints and inquiries, the CDI determined none were justified. Therefore, there was no specific area of concern identified in the complaint review.

The previous claims examination reviewed a period from January 1, 2002 through December 31, 2002. The examination covered the claims handling practices related to Private Passenger Automobile and Commercial Automobile. The most significant noncompliance issues identified in the previous examination report were the Company's failure to pay the full amount owed on a claim; failure to provide written notification of the intent to pursue subrogation; failure to provide written notice of the need for additional time every 30 calendar days; failure to include all applicable taxes, license fees and other fees related to total losses; failure to accept or deny the claim within 40 calendar days; failure to share subrogation recoveries on a proportionate basis with the first-party claimant; and failure to document the basis of betterment and fully explain the basis in writing. These issues were identified as problematic in the current examination.

LIC was not the subject of a prior enforcement action by the California Department of Insurance.

DETAILS OF THE CURRENT EXAMINATION

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

LIC SAMPLE FILES REVIEW			
LINE OF BUSINESS / CATEGORY	CLAIMS IN REVIEW PERIOD	SAMPLE FILES REVIEWED	NUMBER OF ALLEGED VIOLATIONS
Commercial Automobile / Physical Damage (Collision and Comprehensive)	635	70	125
Commercial Automobile / Liability (Bodily Injury and Property Damage)	710	50	25
Commercial Automobile / Cargo	21	16	5
Commercial Automobile / Uninsured Motorist Bodily Injury	6	6	3
TOTALS	1372	142	158

TABLE OF TOTAL ALLEGED VIOLATIONS

Citation	Description of Allegation	LIC Number of Alleged Violations
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.	15
	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.	10
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.	9
	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.	8
CCR §2695.8(b)(1) *[CIC §790.03(h)(5)]	The Company failed to include, in the settlement, the one-time fees incident to transfer of evidence of ownership of a comparable automobile.	11
CCR §2695.8(c) *[CIC §790.03(h)(3)]	The Company failed to notify the insured that the file will be reopened if the Company is notified within 35 days that the insured cannot purchase a comparable automobile for the settlement amount offered or paid.	11
CCR §2695.8(b)(1) *[CIC §790.03(h)(5)]	The Company failed to include, in the settlement, all applicable taxes.	10
CCR §2695.8(b)(1)(A) *[CIC §790.03(h)(5)]	The Company failed to include, in the settlement, fees incident to the transfer of the vehicle to salvage status.	10
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.	8
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.	7
CCR §2695.7(f) *[CIC §790.03(h)(3)]	The Company failed to provide written notice of any statute of limitation or other time period requirement upon which the insurer may rely to deny a claim.	6
CCR §2695.8(b)(1) *[CIC §790.03(h)(5)]	The Company failed to include, in the settlement, the license fee and other annual fees computed based upon the remaining term of the current registration.	6

Citation	Description of Allegation	LIC Number of Alleged Violations
CCR §2695.7(p) *[CIC §790.03(h)(3)]	The Company failed to provide written notification to a first-party claimant as to whether the insurer intends to pursue subrogation.	3
	The Company failed to provide written notification to a first-party claimant of its decision to discontinue pursuit of subrogation.	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.	5
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 covered loss.	4
CCR §2695.8(b)(1)(A) *[CIC §790.03(h)(5)]	The Company failed to include, in the settlement, sales tax associated with the cost of a comparable vehicle, discounted by the amount of sales tax attributed to the salvage value of the loss vehicle.	4
CCR §2695.8(b)(4) *[CIC §790.03(h)(5)]	The Company determined the actual cash value (ACV) of the vehicle by utilizing more than one method described by CCR §2695.8(b)(4)(A), (B), or (C).	4
CCR §2695.7(b) *[CIC §790.03(h)(3)] <i>Third Party</i>	The Company failed, upon receiving proof of claim, to accept or deny the claim within 40 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 §2695.85(a) *[CIC §790.03(h)(3)]	The Company failed to provide the insured with the Auto Body Repair Consumer Bill of Rights either at the time of application for automobile insurance, at the time a policy was issued, or following an accident.	3
CIC §1871.3(b) *[CIC §790.03(h)(3)]	The Company failed to properly instruct the insured regarding the signing of the theft affidavit.	2
CIC §1879.2(a) *[CIC §790.03(h)(3)]	The Company failed to include the California fraud warning on insurance forms related to first-party claimants.	2
CCR §2695.7(b)(1) *[CIC §790.03(h)(3)] <i>Third Party</i>	The Company failed to deny, dispute or reject a third-party claim, in whole or in part, in writing.	2
CCR §2695.7(d) *[CIC §790.03(h)(3)]	The Company failed to conduct and diligently pursue a thorough, fair and objective investigation.	2

Citation	Description of Allegation	LIC Number of Alleged Violations
CCR §2695.8(i) *[CIC §790.03(h)(3)]	The Company failed to document the basis of betterment or depreciation.	1
	The Company failed to fully explain the basis for any adjustment to the claimant in writing.	1
CIC §790.03(h)(5)	The Company failed to effectuate prompt, fair and equitable settlements of claims in which liability had become reasonably clear.	1
CIC §1871.3(a)(1) *[CIC §790.03(h)(3)]	The Company failed to include the penalty of perjury warning on its theft affidavit.	1
CCR §2695.3(b)(2) *[CIC §790.03(h)(3)]	The Company failed to record in the file the date the Company received, processed, transmitted or mailed every relevant document pertaining to the claim.	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
CCR §2695.7(h) *[CIC §790.03(h)(5)]	The Company failed, upon acceptance of the claim, to tender payment within 30 calendar days.	1
CCR §2695.7(q) *[CIC §790.03(h)(5)]	The Company failed to share subrogation recoveries on a proportionate basis with the first-party claimant.	1
Total Number of Alleged Violations		158

***DESCRIPTIONS 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 coverages at issue.
- 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)(5) The Company failed to effectuate prompt, fair, and equitable settlements of claims in which liability had become reasonably clear.

TABLE OF ALLEGED VIOLATIONS BY LINE OF BUSINESS

<p align="center">COMMERCIAL AUTOMOBILE 2013 Written Premium: \$21,501,717 2014 Written Premium: \$23,507,226</p> <p>AMOUNT OF RECOVERIES \$44,154.44</p>	<p align="center">NUMBER OF ALLEGED VIOLATIONS</p>
CCR §2695.8(b)(4) [CIC §790.03(h)(3)]	25
CCR §2695.8(b)(1)(A) [CIC §790.03(h)(3)]	17
CCR §2695.8(b)(1) [CIC §790.03(h)(5)]	11
CCR §2695.8(c) [CIC §790.03(h)(3)]	11
CCR §2695.8(b)(1) [CIC §790.03(h)(5)]	10
CCR §2695.8(b)(1)(A) [CIC §790.03(h)(5)]	10
CCR §2695.7(c)(1) [CIC §790.03(h)(3)]	8
CCR §2695.7(g) [CIC §790.03(h)(5)]	7
CCR §2695.7(f) [CIC §790.03(h)(3)]	6
CCR §2695.8(b)(1) [CIC §790.03(h)(5)]	6
CCR §2695.7(p) [CIC §790.03(h)(3)]	5
CCR §2695.8(f) [CIC §790.03(h)(3)]	5
CIC §11580.011(e) [CIC §790.03(h)(3)]	4
CCR §2695.8(b)(1)(A) [CIC §790.03(h)(5)]	4
CCR §2695.8(b)(4) [CIC §790.03(h)(5)]	4
CCR §2695.7(b) [CIC §790.03(h)(3)]	3
CCR §2695.7(b)(3) [CIC §790.03(h)(3)]	3
CCR §2695.85(a) [CIC §790.03(h)(3)]	3
CIC §1871.3(b) [CIC §790.03(h)(3)]	2
CIC §1879.2(a) [CIC §790.03(h)(3)]	2
CIC §2695.7(b)(1) [CIC §790.03(h)(3)]	2
CCR §2695.7(d) [CIC §790.03(h)(3)]	2
CCR §2695.8(i) [CIC §790.03(h)(3)]	2
CIC §790.03(h)(5)	1
CIC §1871.3(a)(1) [CIC §790.03(h)(3)]	1
CCR §2695.3(b)(2) [CIC §790.03(h)(3)]	1

TABLE OF ALLEGED VIOLATIONS BY LINE OF BUSINESS

<p align="center">COMMERCIAL AUTOMOBILE 2013 Written Premium: \$21,501,717 2014 Written Premium: \$23,507,226</p> <p>AMOUNT OF RECOVERIES \$44,154.44</p>	<p align="center">NUMBER OF ALLEGED VIOLATIONS</p>
<p>CCR §2695.4(a) [CIC §790.03(h)(1)]</p>	<p align="center">1</p>
<p>CCR §2695.7(h) [CIC §790.03(h)(5)]</p>	<p align="center">1</p>
<p>CCR §2695.7(q) [CIC §790.03(h)(5)]</p>	<p align="center">1</p>
<p align="center">SUBTOTAL</p>	<p align="center">158</p>
<p align="center">TOTAL</p>	<p align="center">158</p>

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 states that it strives to comply with the unique rules and regulations associated with each of the jurisdictions in which it is licensed to write insurance.

Money recovered within the scope of this report was \$35,366.37 as described in section numbers 3, 5, 6, 10, 14, 15, 24 and 29 below. Following the findings of the examination, a closed claims survey as described in section number 15 below was conducted by the Company resulting in additional payments of \$8,788.07. As a result of the examination, the total amount of money returned to claimants within the scope of this report was \$44,154.44. Additionally, closed claim surveys as described in sections 8(a) and 8(b) below were conducted by the Company. The Company will issue payments to vehicle owners and provide evidence to the Department by July 27, 2016.

COMMERCIAL AUTOMOBILE

1. In 25 instances, the Company failed to comply with the requirements of CCR §2695.8(b)(4) for a written explanation on total loss settlements.

1(a). In 15 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. Specifically, the Company failed to provide a written explanation of how it arrived at the actual cash value (ACV) either by sending a copy of the computerized automobile

valuation, dealer quotes, internet comparable located vehicles, or by furnishing some other written explanation. The Department alleges these acts are in violation of CCR §2695.8(b)(4) and are unfair practices under CIC §790.03(h)(3).

1(b). In 10 instances, 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. Specifically, the Company failed to provide a full disclosure in writing and failed to itemize how the total loss settlement amounts were calculated. The Department alleges these acts are in violation of CCR §2695.8(b)(4) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response to 1(a) and 1(b): The Company acknowledges these findings in all identified instances; however, the Company does not believe its actions are in violation of CIC §790.03(h)(3). While it is the Company's practice to send copies of the computerized automobile valuation, independent adjuster report and/or ACV analysis with a written outline of the total loss settlement, the Company cannot confirm it was done in the identified instances. To ensure future compliance, the Company conducted training with claims staff on February 18, 2015 and February 19, 2015. As an additional remedial measure, the Company developed an internal template letter and a total loss settlement worksheet as follow up to all verbal communications.

2. In 17 instances, the Company failed to comply with the disclosure requirements of CCR §2695.8(b)(1)(A):

2(a). In nine 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 to 2(a): The Company acknowledges these findings in all identified instances; however, the Company does not believe its actions are in violation of CIC §790.03(h)(3). The Company states that as a Commercial Automobile insurer its customers are fully aware of how retention of salvage may affect the future vehicle resale value. To ensure future compliance, the Company conducted training with claims staff on February 18, 2015 and February 19, 2015. As an additional remedial measure, the Company modified its salvage retention letter to include the required disclosure.

2(b). In eight 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 to 2(b): The Company acknowledges it did not provide the referenced disclosure in all identified instances; however, the Company does not believe its actions are in violation of CIC §790.03(h)(3). To ensure future compliance, the Company conducted training with claims staff on February 18, 2015 and February 19, 2015. As an additional remedial measure, the Company modified its salvage retention letter to include the required disclosure.

3. In 11 instances, the Company failed to include, in the settlement, the one-time fees incident to transfer of evidence of ownership of a comparable vehicle.

All identified instances involve stated value policies. In 10 instances, the Company failed to pay the one-time fees on Company-retained total loss settlements. In one instance, the Company included consideration for the one-time transfer fee although the amount included was less than what was owed. The Company included the fee (\$13.50) based on the loss state rather than the fee (\$15.00) based on the state where the vehicle was registered. The Department alleges these acts are in violation of CCR §2695.8(b)(1) and are unfair practices under CIC §790.03(h)(5).

Summary of the Company's Response: The Company acknowledges these findings in all identified instances; however, the Company does not believe its actions are in violation of CIC §790.03(h)(5). Subsequent to notification of the upcoming examination and after selection of the random claims to be reviewed, the Company issued payments totaling \$90.00 in six instances. In four instances, the Company issued payments totaling \$60.00 as a result of the findings of the examination. In the one instance in which the fee considered was less than what was owed, this was an isolated finding. No additional payment was issued as the amount due was negligible. To ensure future compliance, the Company conducted training with claims staff on February 18, 2015 and February 19, 2015. As an additional remedial measure, the Company developed an internal template letter and a total loss settlement worksheet as follow up to all verbal communications and to safeguard that future payments include the one-time fee.

4. In 11 instances, the Company failed to notify the insured that the file will be reopened if a comparable automobile cannot be purchased for the amount offered or paid. The Department alleges these acts are in violation of CCR §2695.8(c) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company acknowledges these findings in all identified instances; however, the Company does not believe its actions are in violation of CIC §790.03(h)(3). To ensure future compliance, the Company conducted training with claims staff on February 18, 2015 and February 19, 2015. As an additional remedial measure, the Company developed a template total loss letter containing the specified language for first-party total loss claims settled on the basis of the actual cash value.

5. In 10 instances, the Company failed to include, in the settlement, all applicable taxes. Specifically, the Company failed to pay applicable taxes on

Company-retained total loss settlements regarding stated value policies. The Department alleges these acts are in violation of CCR §2695.8(b)(1) and are unfair practices under CIC §790.03(h)(5).

Summary of the Company's Response: The Company acknowledges it did not pay applicable sales tax in all identified instances; however, the Company does not believe its actions are in violation of CIC §790.03(h)(5). Subsequent to notification of the upcoming examination and after selection of the random claims to be reviewed, the Company issued payments totaling \$9,360.00 in six instances. In four instances, the Company issued payments totaling \$4,083.39 as a result of the findings of the examination. To ensure future compliance, the Company conducted training with claims staff on February 18, 2015 and February 19, 2015. As an additional remedial measure, the Company developed an internal template letter and a total loss settlement worksheet as follow up to all verbal communications and to safeguard that future payments include applicable taxes on Company-retained total loss settlements.

6. In 10 instances, the Company failed to include, in the settlement, fees incident to the transfer of the vehicle to salvage status. Nine instances involve stated value policies and one instance involves a third-party liability claim. In eight of these instances, the Company failed to pay the fee incident to the transfer of the vehicle to salvage status on an owner-retained total loss at the time of the settlement. In two instances, the Company included consideration for the fee incident to transfer although the amount included was less than what was owed. The Department alleges these acts are in violation of CCR §2695.8(b)(1)(A) and are unfair practices under CIC §790.03(h)(5).

Summary of the Company's Response: The Company acknowledges these findings in all identified instances; however, the Company does not believe its actions are in violation of CIC §790.03(h)(5). In four instances, the Company issued payments totaling \$75.00 as a result of the findings of the examination. In four instances, no payment was issued given that overpayments were made on the claim for other reasons and the vehicle owner did not sustain any monetary loss for these oversights. In the two instances in which the considered fee was less than what was owed, no additional payments were issued as the amounts due were negligible.

To ensure future compliance, the Company conducted training with claims staff on February 18, 2015 and February 19, 2015. As an additional remedial measure, the Company developed an internal template letter and a total loss settlement worksheet as follow up to all verbal communications and to safeguard that future payments include the fee incident to transfer of the vehicle to salvage status on owner-retained total loss settlements.

7. In eight instances, the Company failed to provide written notice of the need for additional time or information every 30 calendar days. Specifically, in all identified instances, pursuant to CCR §2695.2(s), which defines proof of claim, the Company failed to send status letters. Sufficient information was received that provided

evidence of the claims that reasonably supported the magnitude or the amount of the claimed loss. 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 acknowledges that, while its process is to issue status letters every 30 days, there is no documentation this was done in five instances. In two instances, although the Company states the attorney's office provided an incomplete list of medical bills, and the emails from the attorney's office did not make a monetary demand or indicate that the claimant was in a position to settle the claim, when the attorney's office contacted the Company for a settlement offer, the claim was brought to a rapid resolution. Despite the fact the Company did not specifically acknowledge these two instances, in light of the above and to ensure future compliance for all seven instances, the Company conducted compliance training with claims staff on February 18, 2015 and February 19, 2015.

In one instance, the Company disagrees with this finding. The Company states that the receipt of records and medical bills did not constitute proof of claim and therefore, the Company's obligation to send formal status letters every 30 days was not triggered. The medical records were incomplete and did not provide a reasonable basis for it to evaluate the magnitude of the claim or amount of the loss, and thus, did not constitute "proof of claim". As such, the Company did not send out denial or status letters because it did not yet have evidence of the magnitude or amount of the claimed loss. However, while the Company maintains it did not violate the subject regulations, the Company agrees that under the facts for this claim, a letter advising the claimant that the matter could not be evaluated until all the medical records and bills were received may have been the optimal procedure. The Company, therefore, conducted additional training on this topic in August, 2015.

The Company does not believe its actions are in violation of CIC §790.03(h)(3).

8. In seven instances, the Company attempted to settle a claim by making a settlement offer that was unreasonably low. The Department alleges these acts are in violation of CCR §2695.7(g) and are unfair practices under CIC §790.03(h)(5).

8(a). In six instances, the Company failed to reimburse the insured the amount of the salvage proceeds not to exceed the ACV amount, whichever is less, when the ACV was equal to or greater than the stated value. The Company paid the stated value, took possession of and sold the salvage, recovering an amount which resulted in the Company's net claim payment being less than the stated value. The Company's failure to refund the difference between the stated value and the ACV, whichever amount is less, resulted in a low settlement for each identified insured.

Summary of the Company's Response to 8(a): The Company disagrees with the Department's position that in cases where the insured has a stated value policy, the ACV exceeds the stated value and the Company retains salvage, the insured should receive any amount recovered from the sale of the salvage up to the ACV. The

Company states this interpretation nullifies its right to retain the salvage value in instances where the ACV exceeds the stated value.

The Company also states its premium charged for stated value coverage is lower than single featured Actual Cash Value coverage and contemplates that the salvage recovery will not be reimbursed over the stated value declared by the insured when purchasing physical damage coverage. The premium paid is based on rates which include as a factor, the Company's right to retain salvage or receive a credit for the salvage value. Insurance Services Office's (ISO) filed rates for stated value policies are approved by the State of California. And, the Company states it has confirmed with ISO that the salvage value is factored into this process. Accordingly, the retention of the salvage value by the Company under these circumstances is not profit. Additionally, the policy clearly provides that the Company has the right to retain damaged or stolen property.

Nonetheless, while the Company does not agree with the position advanced by the Department, the Company believes it can achieve the same outcome by underwriting and pricing its products to reimburse the insured the amount of the salvage proceeds not to exceed the ACV amount, whichever is less, when the ACV is equal to or greater than the stated value.

In an effort to remediate this issue, the Company conducted a review of all total loss physical damage claims where an insured would be entitled to an additional settlement based upon salvage recoveries from December 1, 2013 through April 1, 2016. The Company identified 12 first-party total loss claims including the six instances noted above for this period. The Company will issue payments to the vehicle owners and provide evidence to the Department by July 27, 2016.

8(b). In one instance, the Company failed to make a settlement offer on the claim in accordance with the provision under the Stated Amount Insurance Endorsement, which states the Company's obligation is to pay the actual cash value of the damaged property reduced by the applicable deductible prior to the application of the Limit of Insurance shown in the Schedule. The Company applied the deductible to the stated value rather than to the amount of the insured's total loss which exceeded the stated value by at least the amount of the deductible. Based on the policy language, it would be expected that if the ACV exceeds the stated value, part or all of the deductible would be absorbed. If there is language in the policy that is ambiguous or leaves any room for interpretation, it should be construed in favor of the insured. Although the insured elected to go through the adverse carrier for payment of the claim after receiving an offer from the Company, this practice effectively reduces the settlement or the settlement offer by the amount of all or part of the deductible. The policy language is referenced below:

- B.** For a covered “auto” described in the Schedule, **Physical Damage Coverage – Limits of Insurance** is replaced by the following:

Limits Of Insurance

1. The most we will pay for any one “loss” to any one covered “auto” is the least of the following amounts:
 - a. The actual cash value of the damaged or stolen property as of the time of the “loss”;
 - b. The cost of repairing or replacing the damaged or stolen property with property of like kind and quality;
or
 - c. The Limit Of Insurance shown in the Schedule.

Once it is established what is to be paid under Section B then section C is reviewed, which states the following:

C. Deductible

1. For each covered “auto”, our obligation to pay:
 - a. The actual cash value of the damaged or stolen property as of the time of the “loss” will be reduced by the applicable deductible shown in the Schedule;
 - b. The cost of repairing or replacing the damaged or stolen property with property of like kind and quality will be reduced by the applicable deductible shown in the Schedule; or
 - c. The damages for “loss” that would otherwise be payable will be reduced by the applicable deductible shown in the Schedule prior to the application of the Limit Of Insurance shown in the Schedule.

The language of the policy must support the reduction of the deductible. In this case, the language does not support that if the stated value is the lowest value, the deductible is to be applied to the stated value. Rather, once the type of loss is appraised based upon Section B of the endorsement, the deductible is applied to C.1.a. or C.1.b. depending on whether the ACV is lower than or greater than the stated value. Therefore, with regard to C.1.c., if the damages for “loss” that would otherwise be payable (in this case the ACV), exceed the stated value; the deductible only applies to the “loss” or ACV prior to the application of the stated value. In the instances in which

a. and b. are ruled out, c. will apply to the application of the deductible. And, section C.1.c. specifically states that the damages for “loss” will be reduced by the applicable deductible prior to the application of the Limit of Insurance. This section of the endorsement does not state that the deductible will be taken after the application of the Limit of Insurance. “Loss” is defined in the policy as “direct and accidental loss or damage”. As such, the deductible should be applied to the ACV prior to the application of the Limit of Insurance.

Summary of the Company’s Response to 8(b): The Company disagrees with the Department’s position in that if the ACV exceeds the stated value, part or all of the deductible should be absorbed in the payment amount. The Company states this interpretation invalidates the deductible in situations where the stated value is below ACV. The policyholder has the option of purchasing stated value coverage or ACV coverage, the former being significantly less expensive. When the premium reductions for a deductible on such stated value policy is also factored in, the overall cost of the physical damage policy is greatly reduced. Following the Department’s interpretation would blur the distinction between stated value coverage and ACV coverage. The deductible will apply to all settlement types; ACV, repair or replacement, and the limit of liability.

The Company believes an ISO change in 1999 clarified the application of the deductible for stated value coverage; not just for ACV coverage. Additionally, the Company states ISO supports the Company’s position as follows:

...[t]he multistated ISO Commercial Auto endorsement CA 99 28 addressed Stated Amount insurance. The corresponding rule providing guidance on its application is ISO Commercial Lines Manual, Rule 101 of the Physical Damage Coverage Rating Procedures. The Department may be directed to various provisions that provide instructions for the application of this form in relation to deductibles, including Paragraph B.1.a. that states in part “the stated amount basis limits the amount of Physical Damage Coverage to the least of the following, minus any applicable deductible...” (emphasis supplied).

In addition, the California state exception to Rule 101 generally provides instruction to refer to other rules in this manual for additional rating procedures and factors as the final steps in the stated amount basis premium development, including ISO Rule 98, Deductible Insurance. ISO Rule 101 has been approved in California; see ISO circular LI-CA-2012-003 for approval information.

Additionally, please refer to Rule 98 for the various deductible factors provided as guidance for premium development. I would also mention that ISO Commercial Auto loss costs for California as further reference, and

note therein that the base loss cost for the stated amount calculation is at a \$500 deductible.

Leaving aside the validity of respective positions, one of the Company's other physical damage endorsements for stated value includes language that allows for the application of the deductible to the stated value. The Company will commence the use of that alternate endorsement in all of its products to avoid any further interpretation disputes.

In an effort to remediate any claims that meet the same criteria, the Company conducted a review of all physical damage claims from December 1, 2013 through April 1, 2016. The Company will issue payments to the vehicle owners and provide evidence to the Department by July 27, 2016.

9. In six instances, the Company failed to provide written notice of any statute of limitation or other time period requirement upon which the insurer may rely to deny a claim. Three instances pertain to third-party liability property damage claims and three instances pertain to cargo claims. The Department alleges these acts are in violation of CCR §2695.7(f) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company acknowledges these findings in all identified instances; however, the Company does not believe its actions are in violation of CIC §790.03(h)(3). The Company states that the statute information was inadvertently omitted from the letters. To ensure future compliance, the Company modified appropriate form letters to also include property damage statute language. As an additional remedial measure, the Company conducted compliance training with claims staff on February 18, 2015 and February 19, 2015.

10. In six instances, the Company failed to include, in the settlement, the license fee and other annual fees computed based upon the remaining term of the registration. All identified instances involve stated value policies. The Department alleges these acts are in violation of CCR §2695.8(b)(1) and are unfair practices under CIC §790.03(h)(5).

Summary of the Company's Response: The Company acknowledges it did not pay the license fee and other annual fees computed based upon the remaining term of the registration in all identified instances; however, the Company does not believe its actions are in violation of CIC §790.03(h)(5). Subsequent to notification of the upcoming examination and after selection of the random claims to be reviewed, the Company issued payments totaling \$3,876.00 in four instances. In two instances, the Company issued payments totaling \$1,005.00 as a result of the findings of the examination. To ensure future compliance, the Company conducted training with claims staff on February 18, 2015 and February 19, 2015. As an additional remedial measure, the Company developed an internal template letter and a total loss settlement worksheet as follow up to all verbal communications and to safeguard that future

payments include the license fee and other annual fees computed based upon the remaining term of the registration.

11. In five instances, the Company failed to comply with the requirements of CCR §2695.7(p):

11(a). In three instances, the Company failed to provide written notification to a first-party claimant as to whether the insurer intends to pursue subrogation. The Department alleges these acts are in violation of CCR §2695.7(p) and are unfair practices under CIC §790.03(h)(3).

11(b). In two instances, the Company failed to provide written notification to a first-party claimant of its decision to discontinue pursuit of subrogation. The Department alleges these acts are in violation of CCR §2695.7(p) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response to 11(a) and 11(b): The Company acknowledges these findings in all identified instances; however, the Company does not believe its actions are in violation of CIC §790.03(h)(3). The Company states its process is to notify the insured regarding its intent and its decision to discontinue subrogation. As a result of the findings of the examination, the Company sent appropriate letters to each insured. To ensure future compliance, the Company conducted training with claims staff on February 18, 2015 and February 19, 2015.

12. In five instances, the Company failed to supply the claimant with a copy of the estimate upon which the settlement was based. 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 acknowledges these findings in all identified instances; however, the Company does not believe its actions are in violation of CIC §790.03(h)(3). The Company states its practice is to supply the claimant with a copy of the original estimate and any supplemental estimates from the independent adjuster. To ensure future compliance, the Company conducted training with claims staff on February 18, 2015 and February 19, 2015.

13. In four instances, the Company failed to ask if a child passenger restraint system was in the vehicle at the time of a loss that was covered by the policy. Specifically, the Company failed, in all identified instances, to ask whether a child passenger restraint system (CPRS) was unoccupied and damaged at the time of the loss. 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 acknowledges these findings in all identified instances; however, the Company does not believe its actions are in violation of CIC §790.03(h)(3). The Company states its process is to ask if there

is a child passenger restraint system in the vehicle at the time of the accident. As a result of the findings of the examination, the Company sent correspondence on identified claims inquiring about the CPRS. If a response is received in which a CPRS was unoccupied and damaged, the Company will reimburse the claimant for the cost of purchasing a new child passenger restraint system. To ensure future compliance, the Company conducted compliance training with claims staff on February 18, 2015 and February 19, 2015.

14. In four instances, the Company failed to include, in the settlement, sales tax associated with the cost of a comparable vehicle, discounted by the amount of sales tax attributed to the salvage value of the loss vehicle. Specifically, the Company failed to pay sales tax on owner-retained total loss settlements involving stated value policies. The Department alleges these acts are in violation of CCR §2695.8(b)(1)(A) and are unfair practices under CIC §790.03(h)(5).

Summary of the Company's Response: The Company acknowledges it did not pay applicable sales tax in all identified instances; however, the Company does not believe its actions are in violation of CIC §790.03(h)(5). In three instances, the Company issued payments totaling \$2,392.31 as a result of the findings of the examination. Subsequent to notification of the upcoming examination and after selection of the random claims to be reviewed, the Company issued a payment totaling \$6,456.00 in one instance. To ensure future compliance, the Company conducted training with claims staff on February 18, 2015 and February 19, 2015. As an additional remedial measure, the Company developed an internal template letter and a total loss settlement worksheet as follow up to all verbal communications and to safeguard that future payments include applicable taxes on owner-retained total loss settlements.

15. In four instances, the Company determined the actual cash value (ACV) of the vehicle by utilizing more than one method described by CCR §2695.8(b)(4)(A), (B), or (C). Specifically, in all identified instances, the Company utilized the services of an independent adjuster (IA) to inspect and appraise the damages. The IA utilized three different methods to determine the ACV in each instance. The IA obtained a computerized automobile valuation report, dealer quotes (average), and internet comparable vehicles (average). While the referenced regulations do not specifically require that the Company use the method resulting in the highest ACV, the regulations also do not dictate that multiple methods are to be utilized in determining the cost of a comparable vehicle. Rather, the regulations state that if it is not possible to use one of the methods described in the regulations, the cost of a comparable vehicle shall otherwise be supported by documentation. In all of the identified instances, the Company was able to determine the ACV by one of the methods. The regulations require that the processing and settlement of claims be consistent with or more favorable to the insured. Therefore, if more than one method to determine ACV is utilized pursuant to the regulations, the Company shall settle based on the highest ACV. The Department alleges these acts are in violation of CCR §2695.8(b)(4) and are unfair practices under CIC §790.03(h)(5).

Summary of the Company's Response: The Company contends that it did not violate any regulations by utilizing multiple methods and that the regulations do not preclude the use of multiple methods to determine ACV. The Company states it utilized multiple methods in order to determine the most accurate comparable vehicle based on the particular condition of the vehicle at issue, thereby protecting the interests of the insureds. However, in recognition of the Department's concerns, going forward, if the Company utilizes more than one method described by CCR §2695.8(b)(4)(A), (B) or (C), it will pay the insured in accordance with the method which results in the highest ACV. To ensure future compliance, the Company conducted training on this topic in August, 2015. Additionally, although the Company maintains that the amount paid to the insured in each identified circumstance was correct; in these limited circumstances, the Company reopened the identified claims and issued payments totaling \$6,933.67.

Furthermore, in an effort to remediate any claims outside the sample claims reviewed in this examination that were factually similar, the Company reviewed all total loss physical damage claims from July 31, 2012 through August 1, 2015 where multiple methods were utilized to determine the ACV. The Company identified five first-party total loss claims for this period in which more than one method was used to establish the ACV and where the payment was less than the highest ACV. While the Company does not agree that this method of adjusting total loss claims resulted in a low settlement, for purposes of this review, the Company paid the insured the difference between the amount paid and the highest ACV. The Company issued payments totaling \$8,788.07 to vehicle owners.

The Company does not believe its actions are in violation of CIC §790.03(h)(5).

16. In three instances, the Company failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days. Specifically, in all identified instances, pursuant to CCR §2695.2(s), which defines proof of claim, the Company failed to accept or deny the claim within 40 calendar days. Sufficient information was received that provided evidence of the claims that reasonably supported the magnitude or the amount of the claimed loss, thus triggering the time frame requirements per the regulations. The Department alleges these acts are in violation of CCR §2695.7(b) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: In one instance, the Company acknowledges it failed to accept or deny the claim within regulatory requirements. In another instance, although the Company states the attorney's office provided an incomplete list of medical bills, and the emails from the attorney's office did not make a monetary demand or indicate that the claimant was in a position to settle the claim, when the attorney's office contacted the Company for a settlement offer, the claim was brought to a rapid resolution. Despite the fact the Company did not specifically acknowledge this instance, in light of the above and to ensure future compliance for both instances, the Company conducted compliance training with claims staff on February 18, 2015 and February 19, 2015.

In one instance, the Company disagrees with this finding. The Company states that the receipt of records and medical bills did not constitute proof of claim and therefore, the Company's obligation to accept or deny the claim within 40 days was not triggered. The medical records were incomplete and did not provide a reasonable basis for it to evaluate the magnitude of the claim or amount of the loss, and thus, did not constitute "proof of claim". As such, the Company did not send out denial or status letters because it did not yet have evidence of the magnitude or amount of the claimed loss. However, while the Company maintains it did not violate the subject regulations, the Company agrees that under the facts for this claim, a letter advising the claimant that the matter could not be evaluated until all the medical records and bills were received may have been the optimal procedure. The Company, therefore, conducted additional training on this topic in August, 2015.

The Company does not believe its actions are in violation of CIC §790.03(h)(3).

17. 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 acknowledges these findings in all identified instances; however, the Company does not believe its actions are in violation of CIC §790.03(h)(3). The Company states the required language was inadvertently omitted from the letters on these claims. To ensure future compliance, the Company conducted compliance training with claims staff on February 18, 2015 and February 19, 2015.

18. In three instances, the Company failed to provide the insured with the Auto Body Repair Consumer Bill of Rights either at the time of application for automobile insurance, at the time a policy was issued, or following an accident. The Department alleges these acts are in violation of CCR §2695.85(a) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company acknowledges these findings in all identified instances; however, the Company does not believe its actions are in violation of CIC §790.03(h)(3). The Company states its process is to provide a copy of the Auto Body Repair Consumer Bill of Rights at the time the claim is reported. To ensure future compliance, the Company conducted training with claims staff on February 18, 2015 and February 19, 2015.

19. In two instances, the Company failed to properly instruct the insured regarding the signing of the theft affidavit. Specifically, the Company's theft affidavit instructs the insured to sign, notarize and send the form by mail to the Company. Although having a notary witness the insured's signature is one option, the referenced insurance code allows additional options to verify the insured's signature for purposes of

compliance. The Department alleges these acts are in violation of CIC §1871.3(b) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company acknowledges these findings; however, the Company does not believe its actions are in violation of CIC §790.03(h)(3). While the Company states the most convenient option for its customers is the use of a notary, the Company modified its theft affidavit to conform to the requirements of the insurance code in order to ensure future compliance. As an additional remedial measure, the Company conducted training with claims staff on February 18, 2015 and February 19, 2015.

20. In two instances, the Company failed to include the California fraud warning on insurance forms related to first-party claimants. The Department alleges these acts are in violation of CIC §1879.2(a) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company acknowledges these findings; however, the Company does not believe its actions are in violation of CIC §790.03(h)(3). In both instances, the Company inadvertently used obsolete forms. The form currently in use contains the proper language. To ensure future compliance, the Company conducted training with claims staff on February 18, 2015 and February 19, 2015.

21. In two instances, the Company failed to deny, dispute or reject a third-party claim, in whole or in part, in writing. Specifically, in one instance, while the Company verbally advised the claimant attorney that the rental period was unreasonable and the amount was excessive, it failed to provide a partial denial in writing. In the second instance, as a result of property damaged in a fire, the claimant demanded, in writing, additional compensation for her inconvenience. The claimant was verbally informed that inconvenience is not compensable; however, this was not provided in writing pursuant to the referenced regulation. The Department alleges these acts are in violation of CCR §2695.7(b)(1) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company acknowledges these findings; however, the Company does not believe its actions are in violation of CIC §790.03(h)(3). The Company states when all or part of a claim is denied, its process is to issue a confirming letter. To ensure future compliance, the Company conducted compliance training with all claims staff on February 18, 2015 and February 19, 2015.

22. In two instances, the Company failed to conduct and diligently pursue a thorough, fair and objective investigation. In one instance, for a period of approximately five months, the file was void of any investigative activity related to subrogation. In the second instance, the file was void of any activity related to the bodily injury claim for several months until supervisor direction stating the file needs an update. 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 acknowledges these findings; however, the Company does not believe its actions are in violation of CIC §790.03(h)(3). The gaps in activity do not meet the Company's ideal for a timely investigation. The goal of the Company's file diary and managerial review processes is to ensure that every claim is processed in a timely manner. In the first instance, the Company states that it recovered the insured's deductible and its subrogation interest without protracted proceedings and within reasonable time frames. In the second instance, during the gap in activity, the claimant's attorney sent no damages documentation and made no settlement demand. Nonetheless, to ensure future compliance, the Company conducted compliance training with all claims staff on February 18, 2015 and February 19, 2015.

23. In two instances, the Company failed to comply with the requirements of CCR §2695.8(i).

23(a). In one instance, the Company failed to document the basis of betterment or depreciation. Specifically, the repair estimate included a deduction of 25% betterment or \$132.30 for the power steering gear. While the estimate itself provided a general definition of betterment and/or depreciation, the estimate and file notes did not indicate how the adjuster determined the 25% deduction. The Department alleges this act is in violation of CCR §2695.8(i) and is an unfair practice under CIC §790.03(h)(3).

23(b). In one instance, the Company failed to fully explain the basis for any adjustment to the claimant in writing. Specifically, although a copy of the estimate and a letter were sent to the insured advising of the 25% betterment, the estimate and letter did not provide the basis of the betterment taken. 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 to 23(a) and 23(b): The Company disagrees that it failed to document the basis of betterment and disagrees that it failed to fully explain the basis in writing. The Company states its insureds are professional owners of commercial vehicles and are deeply knowledgeable about the expected life span of mechanical parts subject to wear, such as the steering gear. Additionally, the Company states the description outlining the general definition of betterment was sufficient for the insured to understand the basis for the amount of depreciation. Nevertheless, the Company modified its correspondence to more clearly specify the basis for the percentage of depreciation applied to a given part. Additionally and to ensure future compliance, the Company conducted training with claims staff on February 18, 2015 and February 19, 2015.

The Company does not believe its actions are in violation of CIC §790.03(h)(3).

24. In one instance, the Company failed to effectuate prompt, fair and equitable settlements of claims in which liability had become reasonably clear. Specifically,

the Company applied the \$1,000.00 deductible in error even though the policy provided for the deductible to be waived. The Department alleges this act is in violation of CIC §790.03(h)(5).

Summary of the Company's Response: The Company acknowledges this finding, however, the Company does not believe its action is in violation of CIC §790.03(h)(5). In this instance, the deductible was applied in error. This was an isolated finding. To correct the error, the Company issued payment of \$1,000.00 to the insured.

25. In one instance, the Company failed to include a warning on its theft affidavit that false representations subject the insured to a penalty of perjury. The Department alleges this act is in violation of CIC §1871.3(a)(1) and is an unfair practice under CIC §790.03(h)(3).

Summary of the Company's Response: The Company acknowledges this finding, however, the Company does not believe its action is in violation of CIC §790.03(h)(3). In this instance, the Company inadvertently used an obsolete form. The form currently in use contains the proper language. To ensure future compliance, the Company conducted training with claims staff on February 18, 2015 and February 19, 2015.

26. In one instance, the Company failed to record the date the Company received, processed, transmitted or mailed every relevant document pertaining to the claim. Specifically, the attorney submitted a demand package via U.S. mail. A date stamp or envelope could not be located to determine the Company's received date of this document. As such, verification of the date of receipt could not be verified. The Department alleges this act is in violation of CCR §2695.3(b)(2) and is an unfair practice under CIC §790.03(h)(3).

Summary of the Company's Response: The Company acknowledges the document was not date-stamped and it cannot confirm the date it was received; however, the Company does not believe its action is in violation of CIC §790.03(h)(3). The Company's process is to date-stamp every page of each document received by mail. During the period covered by this examination, the Company changed its administrative process so that all mail for both its Western locations is received at the Vancouver office, where it is date-stamped before being distributed. The current process ensures that all incoming documents are date-stamped.

27. In one instance, the Company failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy. Specifically, the Company did not disclose the "Deductible Buy Back" and "Deductible Buy Down" provisions. This coverage allows for the deductible to be waived. 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 acknowledges that, while its process is to explain all coverages and benefits during its first contact with the insured, there is no documentation this was done in this instance. To ensure future compliance, the Company conducted training with claims staff on February 18, 2015 and February 19, 2015.

28. In one instance, the Company failed, upon acceptance of the claim, to tender payment within 30 calendar days. Specifically, payment for the total loss was not issued for over a year pending production of a salvage title from the insured. The salvage title was not required for issuance of payment on this claim. The Department alleges this act is in violation of CCR §2695.7(h) and is an unfair practice under CIC §790.03(h)(5).

Summary of the Company's Response: The Company acknowledges this finding; however, the Company does not believe its action is in violation of CIC §790.03(h)(5). The claims examiner requested a copy of the insured vehicle title prior to issuing payment to verify vehicle ownership and rule out a lienholder. The insured was unable to produce a title for an extended period of time. In this instance, it appears that the claims examiner believed that production of a salvage title was required before payment could be issued. To ensure future compliance, the Company conducted training with claims staff on February 18, 2015 and February 19, 2015 regarding total loss handling.

29. In one instance, the Company failed to share subrogation recoveries on a proportionate basis with the first-party claimant. Specifically, while the subrogation recovery was less than what was subrogated, the recovery of subrogation included 100% of the \$500.00 deductible. In this instance, the Company made a decision to accept a settlement offer from the claimant's carrier which resulted in a net recovery of 68%. The claimant carrier accepted 100% liability, but reduced the Company's subrogation demand due to the Company's inability to produce a salvage invoice, a dispute in the Company's actual cash value, applied taxes, and the amount of storage paid by the Company. The Company's net recovery did not include a reduction of the insured's \$500.00 deductible, only the other items noted above. The Company reimbursed the insured's deductible in the amount of \$340.00. Section 2695.7(q) provides for a deduction of outside attorney fees against the deductible, but the "deduction may only be for a pro rata share of the allocated loss adjustment expense". In this instance, the pro rata share was 25%. Therefore, the deduction should be no more than 25% of \$500 or \$125.00 yet the Company deducted \$160.00. The Department alleges this act is in violation of CCR §2695.7(q) and is an unfair practice under CIC §790.03(h)(5).

Summary of the Company's Response: The Company concedes that an error was made in the mathematical calculation of the amount due to the insured; however, the Company does not believe its actions are in violation of CIC §790.03(h)(5). As a result of this error, the Company reimbursed the insured \$35.00 representing the balance due for the pro rata share of the deductible based on the subrogation recovery.

The Company conducted compliance training on subrogation recoveries in August, 2015.