

**[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**

**PACIFIC PROPERTY AND CASUALTY COMPANY  
NAIC # 11048 CDI # 4646-6**

**AS OF APRIL 30, 2012**

**ADOPTED JANUARY 23, 2015**

**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



January 23, 2015

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:

**Pacific Property and Casualty Company  
NAIC # 11048**

**Group NAIC # 0408**

Hereinafter, the Company listed above also will be referred to as PPCC 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](http://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 and Homeowner claims closed during the period from May 1, 2011 through April 30, 2012. 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. 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 the Company closed by the CDI during the period May 1, 2011 through April 30, 2012; a review of previous CDI market conduct claims examination reports on the 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 Springfield, Missouri.

## **EXECUTIVE SUMMARY OF CLAIMS SAMPLE REVIEWED**

The Private Passenger Automobile and Homeowner claims reviewed were closed from May 1, 2011 through April 30, 2012, referred to as the “review period”. The examiners randomly selected 294 PPCC claims files for examination. The examiners cited 106 alleged claims handling violations of the California Insurance Code and California Code of Regulations from this sample file review.

Findings of this examination included failure to document the basis of property depreciation, failure to supply the claimant with a copy of the automobile repair estimate upon which the settlement was based, failure to properly advise the insured of the method in which a request for reconsideration of fault can be made, failure to effectuate prompt settlements, and failure to reference the CDI in claim denials.

## **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 seven California consumer complaints and inquiries closed from May 1, 2011 through April 30, 2012, in regard to the lines of business reviewed in this examination. Of the complaints and inquiries, the CDI determined none of the complaints were justified and alleged no violations of law.

The previous claims examination reviewed a period from July 1, 2007 through June 30, 2008. The most significant noncompliance issues identified in the previous examination report were the Company's failure to include in the settlement the license fee and other annual fees computed based upon the remaining term of the current registration, failure to fully itemize and explain in writing the determination of the cost of a comparable vehicle at the time the settlement offer is made, failure to properly advise the insured that the driver of the insured vehicle is principally at fault for an accident, and failure to properly instruct the insured regarding the signing of the theft affidavit. Except for the failure regarding the theft affidavit, these issues were also identified as problematic in the current examination.

The Company was not the subject of any prior enforcement action by the CDI.

## DETAILS OF THE CURRENT EXAMINATION

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

<b>PPCC SAMPLE FILES REVIEW</b>			
<b>LINE OF BUSINESS / CATEGORY</b>	<b>CLAIMS IN REVIEW PERIOD</b>	<b>SAMPLE FILES REVIEWED</b>	<b>NUMBER OF ALLEGED VIOLATIONS</b>
Private Passenger Automobile / Collision	2,633	29	19
Private Passenger Automobile / Comprehensive	615	17	0
Private Passenger Automobile / Total Loss	438	14	4
Private Passenger Automobile / Property Damage	1,174	47	22
Private Passenger Automobile / Bodily Injury	286	26	1
Private Passenger Automobile / Uninsured Motorist Property Damage	116	66	11
Private Passenger Automobile / Uninsured Motorist Bodily Injury	60	4	2
Private Passenger Automobile / Medical Payment	345	19	0
Homeowner	796	58	40
Rental Property Owner	128	14	7
<b>TOTALS</b>	6,591	294	106

## TABLE OF TOTAL ALLEGED VIOLATIONS

Citation	Description of Allegation	PPCC Number of Alleged Violations
CCR §2695.9(f) *[CIC §790.03(h)(3)]	The Company failed to document in the claim file all justification for the adjustment of the amount claimed because of betterment, depreciation, or salvage. Any adjustment shall reflect a measurable difference in market value attributable to the condition and age of the property.	26
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.	15
CCR §2632.13(e)(2) *[CIC §790.03(h)(3)]	The Company failed to properly advise the insured of the method in which a request for reconsideration of fault can be made. The Company advised the insured that a request for reconsideration of the liability determination must be in writing.	12
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.	5
CIC §790.03(h)(5)	The Company failed to effectuate prompt, fair and equitable settlements of claims in which liability had become reasonably clear.	4
CIC §2057 *[CIC790.03(h)(5)]	The Company failed to issue payment within 30 days after the amount of the loss and the liability of the Company had been agreed upon or settled by the insured and the Company in writing.	4
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.	4
CCR §2695.7(d) *[CIC §790.03(h)(3)]	The Company failed to conduct and diligently pursue a thorough, fair and objective investigation.	3
	The Company persisted in seeking information not reasonably required for or material to the resolution of a claims dispute.	1
CCR §2695.7(b) *[CIC §790.03(h)(3)] Third party *[CIC §790.03(h)(4)] First party	The Company failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days.	3

Citation	Description of Allegation	PPCC Number of Alleged Violations
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.	3
CCR §2695.7(b)(1) *[CIC §790.03(h)(3)]	The Company failed to deny, dispute or reject a third party claim, in whole or in part, in writing.	2
	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.	1
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.	1
	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.	1
	The Company failed to deduct a salvage value from the settlement that was determined by the amount for which a salvage pool or a licensed salvage dealer, wholesale motor vehicle auction or dismantler will purchase the salvage.	1
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.	2
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.	2
CCR §2695.5(b) *[CIC §790.03(h)(2)]	The Company failed to respond to communications within 15 calendar days.	2
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.	2
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.	2

Citation	Description of Allegation	PPCC Number of Alleged Violations
CIC §790.034(b)(1) *[CIC §790.03(h)(3)]	The Company failed, upon receiving notice of claim, to provide the insured with a copy of §790.03 of the California Insurance Code within 15 calendar days.	1
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 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
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.	1
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.	1
CCR §2695.8(b)(4) *[CIC §790.03(h)(3)]	The Company failed to take reasonable steps to verify that the determination of the cost of a comparable vehicle was accurate and representative of the market value in the local market area.	1
CCR §2695.8(b)(4)(D) *[CIC §790.03(h)(3)]	The Company failed to support by documentation and fully explain to the claimant the cost of a comparable vehicle when it was not possible to determine the cost of a comparable vehicle using the following methods: averaging two or more vehicles that were available in the local market area; averaging two or more quotes from dealers in the local market area; or utilizing a computerized automobile valuation service.	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
CCR §2695.9(d) *[CIC §790.03(h)(3)]	The Company settled the claim on the basis of a written scope and/or estimate without supplying the insured with a copy of each document upon which the settlement was based.	1
<b>Total</b>	<b>106</b>	

**\*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 coverages 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.

**TABLE OF ALLEGED VIOLATIONS BY LINE OF BUSINESS**

<p align="center"><b>PRIVATE PASSENGER AUTOMOBILE</b>                  2011 Written Premium: \$17,660,783                  2012 Written Premium: \$18,465,628</p> <p><b>AMOUNT OF RECOVERIES                      \$24,753</b></p>	<p align="center"><b>NUMBER OF ALLEGED VIOLATIONS</b></p>
CCR §2695.8(f) [CIC §790.03(h)(3)]	15
CCR §2632.13(e)(2) [CIC §790.03(h)(3)]	12
CIC §790.03(h)(5)	4
CCR §2695.7(b)(3) [CIC §790.03(h)(3)]	4
CCR §2695.7(b)(1) [CIC §790.03(h)(3)]	3
CCR §2695.8(b)(1)(A) [CIC §790.03(h)(3)]	3
CIC §790.03(h)(3)	2
CIC §11580.011(e) [CIC §790.03(h)(3)]	2
CCR §2695.7(g) [CIC §790.03(h)(5)]	2
CCR §2695.85(a) [CIC §790.03(h)(3)]	2
CCR §2632.13(e)(1) [CIC §790.03(h)(3)]	1
CCR §2695.4(a) [CIC §790.03(h)(1)]	1
CCR §2695.5(b) [CIC §790.03(h)(2)]	1
CCR §2695.7(c)(1) [CIC §790.03(h)(3)]	1
CCR §2695.7(f) [CIC §790.03(h)(3)]	1
CCR §2695.7(p) [CIC §790.03(h)(3)]	1
CCR §2695.8(b)(1) [CIC §790.03(h)(5)]	1
CCR §2695.8(b)(4) [CIC §790.03(h)(3)]	1
CCR §2695.8(b)(4)(D) [CIC §790.03(h)(3)]	1
CCR §2695.8(i) [CIC §790.03(h)(3)]	1
<p align="center"><b>SUBTOTAL</b></p>	<b>59</b>

<p style="text-align: center;"><b>HOMEOWNER</b>  <b>2011 Written Premium: \$10,115,441</b>  <b>2012 Written Premium: \$9,408,155</b></p> <p><b>AMOUNT OF RECOVERIES</b> <span style="float: right;"><b>\$452.99</b></span></p>	<p style="text-align: center;"><b>NUMBER OF ALLEGED VIOLATIONS</b></p>
CCR §2695.9(f) [CIC §790.03(h)(3)]	26
CCR §2695.7(d) [CIC §790.03(h)(3)]	4
CIC §2057 [CIC §790.03(h)(5)]	4
CCR §2695.7(b) [CIC §790.03(h)(4)] or [CIC §790.03(h)(3)]	3
CCR §2695.7(c)(1) [CIC §790.03(h)(3)]	3
CIC §790.034(b)(1) [CIC §790.03(h)(3)]	1
CCR §2695.7(p) [CIC §790.03(h)(3)]	1
CCR §2695.3(a) [CIC §790.03(h)(3)]	1
CCR §2695.5(b) [CIC §790.03(h)(2)]	1
CCR §2695.7(b)(3) [CIC §790.03(h)(3)]	1
CCR §2695.7(g) [CIC §790.03(h)(5)]	1
CCR §2695.9(d) [CIC §790.03(h)(3)]	1
<b>SUBTOTAL</b>	<b>47</b>
<b>TOTAL</b>	<b>106</b>

## 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 \$1,355.79 as described in sections number nine, 10, 23 and 31 below. Following the findings of the examination, a closed claims survey as described in section number three below was conducted by the Company resulting in additional payments of \$24,200. As a result of the examination, the total amount of money returned to claimants within the scope of this report was \$25,555.79.

### **PRIVATE PASSENGER AUTOMOBILE**

**1. In 15 instances, the Company failed to supply the claimant with a copy of the estimate upon which the settlement was based.** In 11 instances, the Company failed to supply the claimant with a copy of the supplemental estimate. In four instances, the Company failed to provide a copy of the initial 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:** As a result of these findings, the Company implemented procedural updates and conducted training with claims staff on this issue in January 2013.

**2. In 12 instances, the Company failed to properly advise the insured of the method in which a request for reconsideration of fault can be made. The Company advised the insured that a request for reconsideration of the liability determination must be in writing.** The Department alleges these acts are in violation of CCR §2632.13(e)(2) and are unfair practices under CIC §790.03(h)(3).

**Summary of the Company's Response:** As a result of the examination, the Company revised the at-fault letter such that it no longer states that a request for reconsideration must be written. The Company implemented the revised letter on August 28, 2012.

**3. In four instances, the Company failed to effectuate prompt, fair and equitable settlements of claims in which liability had become reasonably clear.** In the identified instances, following receipt of proof that the at-fault party was uninsured, the Company failed to reimburse the insured's collision deductible within a reasonable amount of time. The Department alleges these acts are in violation of CIC §790.03(h)(5).

**Summary of the Company's Response:** As a result of these findings, the Company conducted training with claims staff on this issue in January 2013. Also, in response to a concern that it may have overlooked the reimbursement of the collision deductible in the past, the Company performed an internal survey for the period May 2009 to May 2012 to identify uninsured motorist property damage (UMPD) claims in which it failed to reimburse the collision deductible. The Company reviewed 1,569 UMPD claims and issued payments totaling \$24,200 to 37 insureds, including the four identified in these instances. The Company completed the survey on October 15, 2012, and provided the documentation of the results to the Department on November 12, 2012.

**4. In four 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:** As a result of these findings, the Company conducted training with claims staff in January 2013 regarding the inclusion of appropriate California Department of Insurance language in all denial letters.

**5. In three instances, the Company failed to deny, dispute or reject a third party claim, in whole or in part, 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).

**Summary of the Company's Response:** As a result of these findings, the Company conducted training on this issue with claims staff in January 2013 to ensure

that a claim denial, in whole or in part, is provided in writing.

**6. In three instances the Company failed to comply with the requirements of CCR §2695.8(b)(1)(A).**

**6(a). In one instance, 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 this act is in violation of CCR §2695.8(b)(1)(A) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response to 6(a):** The Company acknowledged that it failed to generate the referenced notice. As a result of the examination, the Company completed revisions to programming in January 2013 to ensure the generation of statutory or regulatory communication.

**6(b). In one instance, 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 this act is in violation of CCR §2695.8(b)(1)(A) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response to 6(b):** The Company acknowledges that it failed to provide the referenced notice. As a result of the examination, the Company completed revisions to programming in January 2013 to ensure the generation of statutory or regulatory communication.

**6(c). In one instance, the Company failed to deduct a salvage value from the settlement that was determined by the amount for which a salvage pool or a licensed salvage dealer, wholesale motor vehicle auction or dismantler will purchase the salvage.** The Company used an internet site to obtain an "average salvage value" versus an actual bid from a salvage pool or licensed salvage dealer. The Department alleges this act is in violation of CCR §2695.8(b)(1)(A) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response to 6(c):** The Company advised that it discontinued the practice of obtaining an average salvage value in January 2013. The Company's practice is to utilize salvage vendors who will provide a guaranteed salvage bid amount for which the salvage can be purchased.

**7. In two instances, the Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies.** In these instances, the Company failed to follow its procedure to issue promptly the principally-at-fault letter. In one instance, the file was closed on October 28, 2011, and was reopened July 5, 2012 to issue the at-fault letter. In the other instance, the subrogation demand was paid January 19, 2012, and the file was re-

opened on June 27, 2012, to issue the at-fault letter. The Department alleges these acts are in violation of CIC §790.03(h)(3).

**Summary of the Company's Response:** The Company states that it completed revisions to programming in January 2013 to ensure the timely generation of statutory or regulatory communication, in accordance with its procedures.

**8. In two 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:** As a result of these findings, the Company conducted training with claims staff in January 2013 on its systems-prompts, which bring up the questions about the presence of a child safety seat. In addition, the Company contacted the identified claimants to ask whether or not a car seat was in the vehicle at the time of the loss. The responses were negative.

**9. In two instances, the Company attempted to settle a claim by making a settlement offer that was unreasonably low.** In one instance, the Company incorrectly calculated the components of the owner-retained salvage total loss settlement. In the other instance, the Company failed to pay a repair supplement. The Department alleges these acts are in violation of CCR §2695.7(g) and are unfair practices under CIC §790.03(h)(5).

**Summary of the Company's Response:** As a result of the examination, and to correct the miscalculation in the first instance, the Company issued a payment of \$307.62 to the insured. The Company conducted training with claims staff in January 2013 to ensure the correct methodology is used in calculating owner-retained total loss salvage vehicles.

In the second instance, the Company issued a supplemental payment of \$66.81 to correct the error. The Company conducted training with claims staff in January 2013 to ensure that all payments are accurate and complete.

**10. In one instance, the Company failed to include in the settlement all applicable taxes.** In this instance, the Company did not include sales tax in the total loss settlement. The Department alleges this act is in violation of CCR §2695.8(b)(1) and is an unfair practice under CIC §790.03(h)(5).

**Summary of the Company's Response:** As a result of the examination, and to correct the error, the Company issued a payment to the vehicle owner in the amount of \$178.94 representing sales tax on the actual cash value. The Company conducted training with claims staff in January 2013 to ensure that all payments are accurate and complete.

**11. In two instances, the Company failed to provide the insured with the Auto Body Repair 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 states that revisions to programming were completed in January 2013 to ensure the generation of statutory or regulatory communication under CCR §2695.85(a).

**12. 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.** In this instance, the Company did not send the determination of fault notice. The Department alleges this act is in violation of CCR §2632.13(e)(1) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response:** The Company states that in this isolated instance, a letter was not generated. To correct the error, the Company sent the at-fault letter to the insured on May 1, 2014. The Company completed revisions to programming in January 2013 to ensure the generation of statutory or regulatory communication.

**13. In one instance, the Company failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy.** In this instance, the Company failed to advise the insured of coverage available under Uninsured Motorist Bodily Injury. 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:** As a result of this finding, the Company conducted training with claims staff in January 2013 regarding the need to disclose all applicable coverage to the insured.

**14. In one instance, the Company failed to respond to communications within 15 calendar days.** Specifically, the Company failed to respond to the insured's question of whether or not the original window sticker detailing optional equipment not included in the Market Valuation Report, would impact the market value of the total loss vehicle. The Department alleges this act is in violation of CCR §2695.5(b) and is an unfair practice under CIC §790.03(h)(2).

**Summary of the Company's Response:** The Company states that in this instance, follow-up communication with the insured was not made. As a result of this finding, the Company conducted training with claims staff in January 2013 regarding proper acknowledgment and consideration of additional information.

**15. In one instance, the Company failed to provide written notice of the need for additional time or information every 30 calendar days.** The Department alleges

this act is in violation of CCR §2695.7(c)(1) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response:** As a result of this finding, the Company conducted training with claims staff in January 2013 regarding the handling of communication within appropriate timelines.

**16. In one instance, 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.** The Department alleges this act is in violation of CCR §2695.7(f) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response:** In this situation, the Company states a notice of time-limitation letter was not sent to the insured. The Company conducted training with claims staff in January 2013 regarding the generation of statutory or regulatory communication within appropriate timelines.

**17. In one instance, the Company failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation.** The Department alleges this act is in violation of CCR §2695.7(p) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response:** The Company states it does not appear that it sent a letter to the insured explaining its intent to subrogate. The Company completed revisions to programming in January 2013 to ensure the generation of statutory or regulatory communication.

**18. In one instance, the Company failed to take reasonable steps to verify that the determination of the cost of a comparable vehicle was accurate and representative of the market value in the local market area.** In this instance, the Company failed to exclude from the valuation report one of the comparable vehicles that was 419 miles outside the local market area. The report included a sufficient number of vehicles available within the insured's local market area. 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 states it believes this was an isolated error. For a vehicle such as the one identified in the examination, the normal market area is under 150 miles.

**19. In one instance, the Company failed to support by documentation and fully explain to the claimant the cost of a comparable vehicle when it was not possible to determine the cost of a comparable vehicle using the following methods: averaging two or more vehicles that were available in the local market area; averaging two or more quotes from dealers in the local market area; or utilizing a computerized automobile valuation service.** The Company determined the actual

cash value for the salvage vehicle by deducting 20% from the Kelly Blue Book Wholesale value, adding that figure to the Kelly Blue Book Retail value, and dividing that figure by two to arrive at an average value. The Company proceeded to deduct 35% from the CCC market value of the insured vehicle, as the insured vehicle was a prior salvage vehicle. The Department alleges this act is in violation of CCR §2695.8(b)(4)(D) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response:** The Company conducted training with claims staff in January 2013 to ensure the correct methodology is used to determine the cost of a comparable vehicle under the circumstances described in this instance.

**20. In one instance, the Company failed to fully explain the basis for any adjustment to the claimant in writing.** In this instance, the insured's vehicle collided with and damaged the claimant's fence and trees. The Company applied depreciation in the settlement of the claim and failed to explain to the claimant in writing the basis for the depreciation. 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 conducted training with claims staff in January 2013 regarding the requirement to explain the basis of all adjustments made to claims, such as depreciation, in writing.

## **HOMEOWNER**

**21. In 26 instances, the Company failed to document in the claim file all justification for the adjustment to the amount claimed because of betterment or depreciation to reflect a measurable difference in market value attributable to the condition and age of the property.** In these instances, the property estimates lacked documentation regarding the age and condition of the items that would warrant betterment or depreciation. The Department alleges these acts are in violation of CCR §2695.9(f) and are unfair practices under CIC §790.03(h)(3).

**Summary of the Company's Response:** The Company states it does not believe that it violated CIC § 790.03. The Company believes it applied reasonable standards and provided a reasonable basis for its consideration and payment. However, the Company amended its procedures to document measurable differences in market value attributable to the condition and age of the property on estimates. Additionally, the Company conducted training on this issue with its claims-handling staff in January 2013.

**22. In four instances, the Company failed to comply with the requirements of CCR §2695.7(d).**

**22(a). In three instances, the Company failed to conduct and diligently pursue a thorough, fair and objective investigation.** In one instance, the file handler

responded to the insured's inquiry by advising that a statement of loss was not received as of March 13<sup>th</sup>; whereas, in fact, the Company had received the statement of loss one month earlier; and it had also received the letter of satisfaction with work order invoices on March 6th.

In the second instance the file handler responded to the insured in March stating a claim form was never received by the Company, when, in fact, the form had been received one month earlier in February.

In the third instance, the Company received the notarized proof of loss in November 2011 and failed to forward the inventory to Claimsplus for evaluation until January 2012.

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 to 22(a):** The Company agrees that, in these instances, there were delays in the handling of the claims. The Company conducted claim practices training on this issue with claims staff in January 2013.

**22(b). In one instance, the Company persisted in seeking information not reasonably required for or material to the resolution of a claims dispute.** In this instance, the Company received notarized proof of loss on November 4, 2011; however, the Company requested this document again on November 16, 2011, and on December 20, 2011. The Department alleges this act is in violation of CCR §2695.7(d) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response to 22(b):** The Company states that it agrees there were multiple requests for the item which had already been received. This is an isolated instance. The Company conducted claim practices training on this issue with claims staff in January 2013.

**23. In four instances, the Company failed to issue payment within 30 days after the amount of the loss and the liability of the Company had been agreed upon or settled by the insured and the Company in writing.** The following four instances pertain to the handling of one claim. The Company failed in three instances to effectuate payment of recoverable depreciation within 30 days. Specifically, the insured submitted replacement receipts on February 23, 2011 to claim recoverable depreciation. The Company paid the recoverable amount on June 8, 2011, which exceeds 90 calendar days. The Company failed in the fourth instance to effectuate payment of recoverable depreciation within 30 days. Specifically, the insured submitted additional replacement receipts to claim recoverable depreciation which were received on August 25, 2011. The Company paid the recoverable amount on October 12, 2011. The Department alleges these acts are in violation of CIC §2057 and are unfair practices under CIC §790.03(h)(5).

**Summary of the Company's Response:** The Company agrees that, in these instances, there were delays in payment of the claims. As a result of this examination,

and to correct the errors, the Company calculated interest and paid the insured \$452.99. The Company conducted training regarding timely payments in January 2013.

**24. In three instances, the Company failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days.** The Department alleges these acts are in violation of CCR §2695.7(b) and are unfair practices under CIC §790.03(h)(4) or CIC §790.03(h)(3).

**Summary of the Company's Response:** As a result of these findings, the Company conducted training with claims staff on this issue in January 2013.

**25. In three 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:** As a result of these findings, the Company conducted training with claims staff in January 2013 on the timeliness of written communication.

**26. In one instance, the Company failed, upon receiving notice of claim, to provide the insured with a copy of §790.03 of the California Insurance Code within 15 calendar days.** The Department alleges this act is in violation of CIC §790.034(b)(1) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response:** The Company states it completed revisions to programming, in January 2013, to ensure generation of statutory or regulatory communication.

**27. In one instance, the Company failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation.** The Department alleges this act is in violation of CCR §2695.7(p) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response:** The Company states that in an isolated instance, a notice was not provided. The Company conducted claim practices training with claims staff on this issue in January 2013.

**28. 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.** 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:** As a result this finding, the Company conducted training with claims staff in January 2013 on file documentation and on the retention of claims correspondence.

**29. In one instance, the Company failed to respond to communications within 15 calendar days.** In this instance, a file handler's notepad entry stated that after discussing the claim with the insured, a letter would be sent to confirm the conversation. This letter was not sent within 15 days. The Department alleges this act is in violation of CCR §2695.5(b) and is an unfair practice under CIC §790.03(h)(2).

**Summary of the Company's Response:** As a result of this finding, the Company conducted training with claims staff in January 2013 on the proper acknowledgment and consideration of additional information.

**30. In one instance, 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 this act is in violation of CCR §2695.7(b)(3) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response:** As a result of this finding, the Company conducted training with claims staff in January 2013 regarding the appropriate California Department of Insurance language in all denial letters.

**31. In one instance, the Company attempted to settle a claim by making a settlement offer that was unreasonably low.** In this instance, the Company settled the claim without including sales tax. The Department alleges this act is in violation of CCR §2695.7(g) and is an unfair practice under CIC §790.03(h)(5).

**Summary of the Company's Response:** As a result of this examination, the Company discovered that it failed to pay sales tax on the personal property portion of the claim payment amount of \$3326.21. To correct the error, the Company applied sales tax at the rate of 8.5% which resulted in an additional payment of \$282.72 plus interest in the amount of \$66.71, for a total payment to the insured of \$349.43. The Company conducted training with claims staff on this issue in January 2013.

**32. In one instance, the Company settled the claim on the basis of a written scope and/or estimate without supplying the insured with a copy of each document upon which the settlement was based.** The Department alleges this act is in violation of CCR §2695.9(d) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response:** As a result this finding, the Company conducted training with its claims staff on this issue in January 2013.