

**[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**

**NAVIGATORS INSURANCE COMPANY
NAIC # 42307 CDI # 3119-5**

AS OF OCTOBER 31, 2012

ADOPTED MARCH 3, 2014

STATE OF CALIFORNIA



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

NOTICE

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

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DEPARTMENT OF INSURANCE

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



March 3, 2014

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

Honorable Commissioner:

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

Navigators Insurance Company
NAIC # 42307

NAIC Group # 0510

Hereinafter, the Company listed above also will be referred to as NIC or Navigators 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 Multiple Peril, Commercial Automobile, Inland Marine and Surety claims closed during the period from November 1, 2011 through October 31, 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 this Company closed by the CDI during the period November 1, 2011 through October 31, 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 San Francisco, California.

EXECUTIVE SUMMARY OF CLAIMS SAMPLE REVIEWED

The Commercial Multiple Peril, Commercial Automobile, Inland Marine and Surety claims reviewed were closed from November 1, 2011 through October 31, 2012, referred to as the “review period”. The examiners randomly selected 180 Navigators claims files for examination. The examiners cited 88 alleged claims handling violations of the California Insurance Code and the California Code of Regulations from this sample file review.

Findings of this examination included the failure to reimburse the unused license fees in the settlement of total losses and the failure to provide complete explanations of coverages.

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

The results of the market analysis review revealed that during 2012, an enforcement action was taken by the state of Oregon. This action alleged that the Company failed to provide written notice every 45 days of the need for more time to investigate claims. The examiners focused on this issue during the course of the file review. This issue was not identified as problematic in the current examination.

The Company was the subject of 25 California consumer complaints and inquiries closed from November 1, 2011 through October 31, 2012, in regard to the lines of business reviewed in this examination. Of the complaints and inquiries, the CDI determined three complaints were justified for delays in claim handling. The examiner focused on these issues during the course of the file review.

The previous claims examination reviewed a period from October 1, 2003 through September 30, 2004. There was no specific area of concern identified in the previous claims examination.

The Company has not been a subject of any prior CDI enforcement action.

DETAILS OF THE CURRENT EXAMINATION

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

| NIC SAMPLE FILES REVIEW | | | |
|---|--------------------------------|------------------------------|------------------------------------|
| LINE OF BUSINESS / CATEGORY | CLAIMS IN REVIEW PERIOD | SAMPLE FILES REVIEWED | NUMBER OF ALLEGED CITATIONS |
| Commercial Automobile / 1 st Party | 37 | 24 | 46 |
| Commercial Automobile / 3 rd Party | 118 | 43 | 20 |
| Commercial Automobile / Garage Keeper Liability | 3 | 1 | 0 |
| Commercial Multiple Peril / Property | 18 | 5 | 0 |
| Inland Marine | 114 | 28 | 0 |
| Other Liability | 58 | 17 | 0 |
| Surety | 692 | 62 | 22 |
| TOTALS | 1,040 | 180 | 88 |

TABLE OF TOTAL CITATIONS

| Citation | Description of Allegation | NIC Number of Alleged Citations |
|---|--|---------------------------------|
| CCR §2695.8(b)(1) *[CIC §790.03(h)(5)] | The Company failed to include, in the settlement, all applicable taxes, and the license fee and other annual fees computed based upon the remaining term of the current registration. | 10 |
| 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. | 9 |
| 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. | 8 |
| CCR §2695.8(b)(4) *[CIC §790.03(h)(3)] | The Company failed to fully itemize in writing the determination of the cost of a comparable vehicle at the time the settlement offer was made. Itemization of all components of the settlement was not provided. | 8 |
| 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. | 7 |
| CCR §2695.5(e)(3) *[CIC §790.03(h)(3)] | The Company failed to begin investigation of the claim within 15 calendar days. | 6 |
| 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. | 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 the accident or was in the vehicle at the time of a loss that was covered by the policy. | 5 |
| 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. | 4 |

| Citation | Description of Allegation | NIC Number of Alleged Citations |
|---|---|---------------------------------|
| 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. | 4 |
| 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. | 4 |
| CCR §2695.10(c) *[CIC §790.03(h)(5)] | The Company failed to provide written notice of the need for additional time every 30 calendar days. . | 4 |
| CCR §2695.10(b) *[CIC§790.03(h)(3)] | The Company failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days. Every Company that denies a claim shall do so in writing. Written notification pursuant to this subsection shall also include a notification that the claimant may have the matter reviewed by the California Department of Insurance and shall provide the address and telephone number of the unit of the Department which reviews complaints regarding claims practices. | 3 |
| CCR §2695.10(d) *[CIC§790.03(h)(3)] | The Company failed to pursue diligently an investigation of a claim, or persisted in seeking information not reasonably required for or material to resolution of a claims dispute. . | 3 |
| CCR §2695.5(b) *[CIC§790.03(h)(2)] | The Company failed to respond to communications within 15 calendar days. | 2 |
| CCR §2695.5(e)(1) *[CIC §790.03(h)(2)] | The Company failed to acknowledge notice of claim within 15 calendar days. | 2 |
| CCR §2695.10(f) *[CIC §790.03(h)(5)] | The Company failed to pay an undisputed claim within 15 calendar days following affirmation of liability. | 2 |
| CIC §1861.05(a) *[CIC §790.03(h)(5)] | The Company failed to amend the premium charged to the insured to reflect the current exposure following the total loss of the vehicle that previously served as the exposure basis for rating purposes. | 2 |
| Total Number of Citations | | 88 |

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

TABLE OF CITATIONS BY LINE OF BUSINESS

| COMMERCIAL AUTOMOBILE 2012 Written Premium: \$204,420 | NUMBER OF CITATIONS |
|---|----------------------------|
| AMOUNT OF RECOVERIES \$27,256.89 | |
| CCR §2695.8(b)(1) [CIC §790.03(h)(5)] | 10 |
| CCR §2695.4(a) [CIC §790.03(h)(1)] | 9 |
| CCR §2695.8(b)(4) [CIC §790.03(h)(3)] | 8 |
| CCR §2695.8(b)(4) [CIC §790.03(h)(3)] | 8 |
| CCR §2695.85(a) [CIC §790.03(h)(3)] | 7 |
| CIC §11580.011(e) [CIC §790.03(h)(3)] | 5 |
| CCR §2695.8(c) [CIC §790.03(h)(3)] | 5 |
| CCR §2695.7(b)(3) [CIC §790.03(h)(3)] | 4 |
| CCR §2695.8(b)(4) [CIC §790.03(h)(3)] | 4 |
| CCR §2695.8(f) [CIC §790.03(h)(3)] | 4 |
| CIC §1861.05(a) [CIC §790.03(h)(5)] | 2 |
| SUBTOTAL | 66 |

| COMMERCIAL MULTIPLE PERIL / Property 2012 Written Premium: \$(8,444) | NUMBER OF CITATIONS |
|--|----------------------------|
| AMOUNT OF RECOVERIES \$-0- | |
| SUBTOTAL | -0- |

| INLAND MARINE 2012 Written Premium: \$4,215,705 | NUMBER OF CITATIONS |
|---|----------------------------|
| AMOUNT OF RECOVERIES \$-0- | |
| SUBTOTAL | -0- |

| | |
|--|----------------------------|
| OTHER LIABILITY 2012 Written Premium: \$21,938,842 | NUMBER OF CITATIONS |
| AMOUNT OF RECOVERIES \$-0- | |
| SUBTOTAL | -0- |

| | |
|--|----------------------------|
| SURETY 2012 Written Premium: \$2,202,186 | NUMBER OF CITATIONS |
| AMOUNT OF RECOVERIES \$-0- | |
| CCR §2695.5(e)(3) [CIC §790.03(h)(3)] | 6 |
| CCR §2695.10(c) [CIC §790.03(h)(3)] | 4 |
| CCR §2695.10(b) [CIC §790.03(h)(3)] | 3 |
| CCR §2695.10(d) [CIC §790.03(h)(3)] | 3 |
| CCR §2695.5(b) [CIC §790.03(h)(2)] | 2 |
| CCR §2695.5(e)(1) [CIC §790.03(h)(2)] | 2 |
| CCR §2695.10(f) [CIC §790.03(h)(5)] | 2 |
| SUBTOTAL | 22 |

| | |
|--------------|-----------|
| TOTAL | 88 |
|--------------|-----------|

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 \$1,484.00 as described in section number 11 below. Following the findings of the examination, the Company conducted surveys as described in sections 1 and 11 below, resulting in additional payments of \$25,772.89. As a result of the examination, the total amount of money returned to claimants within the scope of this report was \$27,256.89.

COMMERCIAL AUTOMOBILE

1. **In ten instances, the Company failed to include in the settlement the applicable taxes, the license fee and other annual fees computed based upon the remaining term of the current registration.** In nine of the ten instances, the Company failed to include the unexpired license fee. In the last instance, the Company failed to include sales tax. 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 agrees that in these ten instances the total loss settlement calculation did not appear to have included the applicable taxes and/or the unused license and other annual Department of Motor Vehicles (DMV) fees as required by CCR §2695.8(b)(1). The Company has adopted the following remediation plan to ensure future compliance:

A. Review, calculate and issue to claimants any owed supplemental loss payment representing the sales tax, the remaining term for license fees and other annual fees.

B. Review, as described in the paragraph below, all California auto claims for the past three years involving total loss vehicles and calculate and issue any owing supplemental loss payments representing the sales tax and the remaining term for license fees and other annual fees.

C. Ensure Company training curriculum continues to include the requirements of CCR §2695.8(b)(1).

D. Remind Company staff through training of the requirement to include the sales tax and the remaining term for license fees and other annual fees in the total loss settlement calculation.

E. Ensure vendor management protocols require vendor training curriculum to include the requirements of CCR §2695.8(b)(1).

F. Complete regular Company and vendor audits to ensure compliance.

The Company initiated an internal survey of such claims that were closed from October 1, 2009 through October 31, 2012. For this period, Navigators determined that there were 49 claims in which the vehicle was deemed a total loss. With the matter of sales tax, sales tax was paid as part of the original settlement to 38 of 49 claimants. The Company determined that the sales tax was paid at initial settlement if the appraiser vendor used by the TPA included the sales tax on the appraisal documents sent to the TPA. However, it was determined that if the appraiser vendor did not include the sales tax, the sales tax was not reimbursed to the claimant. Eleven claimants have been reimbursed sales tax for a total sales tax reimbursement of \$12,346.89.

The Company retained a vendor to determine the correct amount of unused vehicle fees required to be returned to the claimants. This resulted in supplemental payments totaling \$7,255.00 for 36 claimants. The reimbursement of unused vehicle fees is scheduled for completion by September 30, 2013.

2. In nine instances, the Company failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy. The Department alleges these acts are in violation of CCR §2695.4(a) and are unfair practices under CIC §790.03(h)(1).

Summary of the Company's Response: The Company agrees that in these nine instances the file did not reflect disclosure to first party claimants of all benefits and limits. The Company has adopted the following remediation plan to ensure future compliance:

A. Ensure Company training curriculum continues to include the requirements of CCR §2695.4(a).

B. Remind Company staff through training of the requirement to disclose all available limits and time frames.

C. Ensure vendor management protocols require vendor's training curriculum to include the requirements of CCR §2695.4(a).

D. Complete regular Company and vendor audits to ensure compliance with CCR §2695.4(a).

On January 17, 2013, the Company gave training to the Third Party Administrator (TPA). The TPA has revised its procedures and processes to disclose all benefits and limits at the time a claim is acknowledged. The TPA's revised processes and procedures have been reviewed and approved by the Company. A compliance review of the Company's TPA is scheduled to be completed by November 15, 2013.

3. In eight instances, 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. 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: The Company agrees that the methodology used in the evaluation does not meet the requirements of CCR §2695.8(b)(4). At the time of the claim, it was the Company's custom and practice to determine actual cash value (ACV) by averaging three dealer quotes and one book value. Since this was the Company's standard business practice and procedure, the file would not have documented whether or not a search took place for comparable automobiles that were available in the local market area within the previous 90 days. The Company has adopted the following remediation plan to ensure future compliance:

A. Ensure Company training curriculum continues to include the requirements of CCR §2695.8(b)(4).

B. Remind Company staff through training of the requirement to document the file as to whether or not a search took place for comparable automobiles that were available in the local market area within the previous 90 days.

C. Ensure vendor management protocols require vendor's training curriculum to include the requirements of CCR §2695.8(b)(4).

D. Complete regular Company and vendor audits to ensure compliance with CCR §2695.8(b)(4).

On January 17, 2013, the Company gave training to the TPA which included the requirement to document that steps were taken to verify that the cost of a comparable vehicle is accurate and representative of the market value in the local market area within the previous 90 days. The TPA's revised processes and procedures have been reviewed and approved by the Company. A compliance review of the Company's TPA is scheduled to be completed by November 15, 2013.

4. In eight 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.

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: The Company agrees that the claim file did not document that the insured was given a written explanation of the total loss settlement as required by CCR §2695.8(b)(4). The Company has adopted the following remediation plan to ensure future compliance:

A. Ensure Company training curriculum continues to include the requirements of CCR §2695.8(b)(4).

B. Remind Company staff through training of the requirement to document the file as to providing the insured with a written explanation of the market value.

C. Ensure vendor management protocols require vendor's training curriculum to include the requirements of CCR §2695.8(b)(4).

D. Complete regular Company and vendor audits to ensure compliance with CCR §2695.8(b)(4).

On January 17, 2013, the Company gave training to the TPA which included the requirement to document in writing each component of the settlement offer which would include the explanation of the total loss settlement. A compliance review of the Company's TPA is scheduled to be completed by November 15, 2013.

5. In seven 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 agrees that in these seven instances the Bill of Rights was not attached to the acknowledgment letter. The Auto Repair Consumer Bill of Rights resides in the policy issuance system as an optional form. Navigators understood that the Bill of Rights was being delivered at claim activity by the TPA. The Company has subsequently determined that this was not the case and the Consumer Bill of Rights was not delivered to the insured. On February 9,

2013, the policy issuance system was adjusted to automatically attach the Auto Consumer Bill of Rights at policy issuance. In addition, the TPA was instructed to deliver the Consumer Bill of Rights with claims that are currently in an open status and on new claims. A compliance review of the Company's TPA is scheduled to be completed by November 15, 2013.

6. In five instances, the Company failed to ask if a child passenger restraint system was in use by a child during an accident. The Department alleges these acts are in violation of CIC §11580.011(e) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees that in five instances the claim file did not document whether or not the Company questioned the claimant if a child car seat was in use or in the vehicle at the time of the accident as required under CIC §11580.011(e). The Company has adopted the following remediation plan to ensure future compliance:

A. Ensure Company training curriculum continues to include the requirements of CIC §11580.011(e).

B. Remind Company staff through training of the requirement to inquire if a child car seat was in use or in the vehicle at the time of the accident.

C. Ensure vendor management protocols require vendor's training curriculum to include the requirements of CIC §11580.011(e).

D. Complete regular Company and vendor audits to ensure compliance with CIC §11580.011(e).

On January 17, 2013, the Company gave training to the TPA which included the requirement to inquire if a child car seat was in use or in the vehicle at the time of the accident and to document the claim file appropriately. A compliance review of the Company's TPA is scheduled to be completed by November 15, 2013.

7. In five 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 agrees that in these five instances the file did not document that the claimant was provided with this notification. The Company has adopted the following remediation plan to ensure future compliance:

A. Ensure Company training curriculum continues to include the requirements of CCR §2695.8(c).

B. Remind Company staff through training of the requirement to notify the insured that the file can be reopened if a comparable vehicle cannot be found for the gross settlement amount within 35 days of the settlement.

C. Ensure vendor management protocols require vendor's training curriculum to include the requirements of CCR §2695.8(c).

D. Complete regular Company and vendor audits to ensure compliance with CCR §2695.8(c).

On January 17, 2013, the Company gave training to the TPA which included the requirement to notify the insured that the file can be reopened if a comparable vehicle cannot be found for the gross settlement amount within 35 days of the settlement. A compliance review of the Company's TPA is scheduled to be completed by November 15, 2013.

8. 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 (CDI). The Department alleges these acts are in violation of CCR §2695.7(b)(3) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees that in these four instances the denial letter failed to include the required reference to the CDI. The Company has adopted the following remediation plan to ensure future compliance:

A. Ensure Company training curriculum continues to include the requirements of CCR §2695.7(b)(3).

B. Remind Company staff through training to include the required reference language in all claim denials.

C. Ensure vendor management protocols require vendor's training curriculum to include the requirements of CCR §2695.7(b)(3).

D. Complete regular Company and vendor audits to ensure compliance with CCR §2695.7(b)(3).

On January 17, 2013, the Company gave training to the TPA which included the requirement to include the required CDI reference language in all claim denials. A compliance review of the Company's TPA is scheduled to be completed by November 15, 2013.

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

Summary of the Company's Response: The Company agrees that in these four instances the claim file did not document that the insured was given a written explanation on how the market value was determined as required by CCR §2695.8(b)(4). The Company has adopted the following remediation plan to ensure future compliance:

A. Ensure Company training curriculum continues to include the requirements of CCR §2695.8(b)(4).

B. Remind Company staff through training of the requirement to document the file as to informing the insured of the market value determination of total losses.

C. Ensure vendor management protocols require vendor's training curriculum to include the requirements of CCR §2695.8(b)(4).

D. Complete regular Company and vendor audits to ensure compliance with CCR §2695.8(b)(4).

On January 17, 2013, the Company gave training to the TPA which included the requirement to document the file with respect to informing the insured in writing of the market value determination of total losses. A compliance review of the Company's TPA is scheduled to be completed by November 15, 2013.

10. In four 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 agrees that in these four instances the claim file did not document that the claimant was furnished with a copy of the repair estimate. The Company has adopted the following remediation plan to ensure future compliance:

A. Ensure Company training curriculum continues to include the requirements of CCR §2695.8(f).

B. Remind Company staff through training to provide the claimant with a copy of all estimates.

C. Ensure vendor management protocols require vendor's training curriculum to include the requirements of CCR §2695.8(f).

D. Complete regular Company and vendor audits to ensure compliance with CCR §2695.8(f).

On January 17, 2013, the Company gave training to the TPA which included the requirement to provide the claimant with a copy of all estimates. A compliance review of the Company's TPA is scheduled to be completed by November 15, 2013.

11. In two instances, the Company failed to amend the premium charged to the insured to reflect the current exposure following the total loss of the vehicle that previously served as the exposure basis for rating purposes. The Department alleges these acts are in violation of CIC § 1861.05(a) and are unfair practices under CIC §790.03(h)(5).

Summary of the Company's Response: The commercial book of business was sold to a competitor in 2011 which assumed the underwriting services in the first quarter of 2011. The Company has determined that in both instances, the insureds did qualify for a pro-rata premium refund. The Company has adopted the following remediation plan to ensure future compliance:

A. Ensure Company training curriculum continues to include the requirements of CIC §1861.05(a).

B. Remind Company claim staff through training of the requirement to alert the Underwriting Department when an insured vehicle becomes a total loss.

On January 17, 2013, the Company gave training to the TPA which included the requirement to inform Navigators Underwriting when a vehicle is deemed a total loss. The claim adjuster is required to document file notes appropriately. Navigators Underwriting will pursue further discussions with the insured or the insured's broker to determine the appropriate next steps. A compliance review of the Company's TPA is scheduled to be completed by November 15, 2013.

In the two instances indicated, the Company returned \$1,484.00 in unearned premium. The Company initiated a self-survey of total loss claims that were closed from October 1, 2009 through October 31, 2012, which it completed on July 16, 2013. Of the 23 first party total loss vehicle claims that were closed during this period, 14 did not retain their vehicles. Of the 14, the Company had correctly removed six vehicles from the policy when the vehicle was deemed a total loss. The remaining eight insureds did not have their vehicles correctly removed from the policy. As a result, a total of \$6,171.00 in unearned premium was returned to these claimants.

SURETY

12. In six instances, the Company failed to begin investigation of the claim within 15 calendar days. The Department alleges these acts are in violation of CCR §2695.5(e)(3) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees that in these six instances it would appear that the investigation did not begin after receipt of notice of claim as required by CCR §2695.5(e)(3). The Company has adopted the following Compliance Remediation Plan to ensure future compliance:

A. In January 2012, the Company retained a surety bond claim manager to ensure that all personnel handling surety claims receive instruction and training in the regulations and requirements of proper bond claim handling.

B. In April 2012, the Company replaced its existing surety TPA, which handled these six claims, with a new surety claim TPA.

C. Ensure Company training curriculum continues to include the requirements of CCR §2695.5(e)(3).

D. Ensure TPA management protocols require vendor's training curriculum to include the requirements of CCR §2695.5(e)(3).

E. Complete regular Company and vendor audits to ensure compliance with CCR §2695.5(e)(3).

13. In four instances, the Company failed to provide written notice of the need for additional time every 30 calendar days. The Department alleges these acts are in violation of CCR §2695.10(c) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees that in these four instances the written notice for the need for additional time was not provided. The Company has adopted the following Compliance Remediation Plan to ensure future compliance: Compliance Remediation Plan:

A. In January 2012, the Company retained a surety bond claim manager to ensure that all personnel handling surety claims receive instruction and training in the regulations and requirements of proper bond claim handling.

B. In April 2012, the Company replaced its existing surety TPA, which handled these four claims, with a new surety claim TPA.

C. Ensure Company training curriculum continues to include the requirements of CCR §2695.10(c).

D. Ensure TPA management protocols require vendor's training curriculum to include the requirements of CCR § 2695.10(b).

E. Complete regular Company and vendor audits to ensure compliance with CCR §2695.10(b).

Both the TPA management and the Company are conducting monthly reviews of the claim files handled by the TPA to ensure compliance.

14. 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 §2695.10(b) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees that in these three instances the proof of claim was not accepted or denied in writing within 40 calendar days. The Company has adopted the following Compliance Remediation Plan to ensure future compliance:

A. In January 2012, the Company retained a surety bond claim manager to ensure that all personnel handling surety claims receive instruction and training in the regulations and requirements of proper bond claim handling.

B. In April 2012, the Company replaced its existing surety TPA, which handled this claim, with a new surety claim TPA.

C. Ensure Company training curriculum continues to include the requirements of CCR §2695.10(b).

D. Ensure TPA management protocols require vendor's training curriculum to include the requirements of CCR §2695.10(b).

E. Complete regular Company and vendor audits to ensure compliance with CCR §2695.10(b).

Both the TPA management and the Company are conducting monthly reviews of the claim files handled by the TPA to ensure compliance.

15. In three instances, the Company failed to pursue diligently an investigation of a claim or persisted in seeking information not reasonably required for or material to resolution of a claims dispute. In two instances, the Company persisted in requesting additional information when the claim file contained sufficient information to determine its liability. In the other instance, the Company was not diligent in its efforts to contact the claimant. The Department alleges these acts are in violation of CCR §2695.10(d) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees that in these three instances either unnecessary requests for information were made or a diligent investigation was not conducted. The Company has adopted the following Compliance Remediation Plan to ensure future compliance:

A. In January 2012, the Company retained a surety bond claim manager to ensure that all personnel handling surety claims receive instruction and training in the regulations and requirements of proper bond claim handling.

B. In April 2012, the Company replaced its existing surety TPA, which initially handled this claim, with a new surety claim TPA.

C. In April 2012, when the existing TPA was terminated, all open files were assigned to an outside law firm for assessment and investigation, as needed. The Company has since removed all open non-litigated files from the outside law firm.

D. Ensure Company training curriculum continues to include the requirements of CCR §2695.10(d).

E. Ensure TPA management protocols require vendor's training curriculum to include the requirements of CCR §2695.10(d).

F. Complete regular Company and vendor audits to ensure compliance with CCR §2695.10(d).

Both the TPA management and the Company are conducting monthly reviews of the claim files handled by the TPA to ensure compliance.

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

Summary of the Company's Response: The Company agrees that in two instances the acknowledgment of communications was not made. The Company has adopted the following Compliance Remediation Plan to ensure future compliance:

A. In January 2012, the Company retained a surety bond claim manager to ensure that all personnel handling surety claims receive instruction and training in the regulations and requirements of proper bond claim handling.

B. In April 2012, the Company replaced its surety TPA, which handled this claim, with a new surety claim TPA.

C. Ensure Company training curriculum continues to include the requirements of CCR §2695.5(b).

D. Ensure TPA management protocols require vendor's training curriculum to include the requirements of CCR §2695.5(b).

E. Complete regular Company and vendor audits to ensure compliance with CCR §2695.5(b).

Both the TPA management and the Company are conducting monthly reviews of the claim files handled by the TPA to ensure compliance.

17. In two instances, the Company failed to acknowledge notice of claim within 15 calendar days. The Department alleges these acts are in violation of CCR §2695.5(e)(1) and are unfair practices under CIC §790.03(h)(2).

Summary of the Company's Response: The Company agrees that in these two instances the claim was not acknowledged within 15 days of receipt of notice as required by CCR §2695.5(e)(1). The Company has adopted the following Compliance Remediation Plan to ensure future compliance:

A. In January 2012, the Company retained a surety bond claim manager to ensure that all personnel handling surety claims receive instruction and training in the regulations and requirements of proper bond claim handling.

B. In April 2012, the Company replaced its surety TPA, with a new surety claim TPA.

C. Ensure Company training curriculum continues to include the requirements of CCR §2695.5(e)(1).

D. Ensure TPA management protocols require vendor's training curriculum to include the requirements of CCR §2695.5(e)(1).

E. Complete regular Company and vendor audits to ensure compliance with CCR §2695.5(e)(1).

Both the TPA management and the Company are conducting monthly reviews of the claim files handled by the TPA to ensure compliance.

18. In two instances, the Company failed to pay an undisputed claim within 15 calendar days following affirmation of liability. The Department alleges these acts are in violation of CCR §2695.10(f) and are unfair practices under CIC §790.03(h)(5).

Summary of the Company's Response: The Company agrees that in two instances the loss payment was not tendered within 15 calendar following affirmation of liability as required by CCR §2695.10(f). The Company has adopted the following Compliance Remediation Plan to ensure future compliance:

A. In January 2012, the Company retained a surety bond claim manager to ensure that all personnel handling surety claims receive instruction and training in the regulations and requirements of proper bond claim handling.

B. In April 2012, the Company replaced its existing surety TPA with a new surety claim TPA.

C. Ensure Company training curriculum continues to include the requirements of CCR §2695.10(f).

D. Ensure TPA management protocols require vendor's training curriculum to include the requirements of CCR §2695.10(f).

E. Complete regular Company and vendor audits to ensure compliance with CCR §2695.10(f).

Both the TPA management and the Company are conducting monthly reviews of the claim files handled by the TPA to ensure compliance.