

**[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**

**UNITRIN DIRECT INSURANCE COMPANY
NAIC # 10226 CDI # 4658-1**

AS OF DECEMBER 31, 2012

ADOPTED SEPTEMBER 29, 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.

TABLE OF CONTENTS

SALUTATION	1
FOREWORD.....	2
SCOPE OF THE EXAMINATION.....	3
EXECUTIVE SUMMARY OF CLAIMS SAMPLE REVIEWED.....	4
RESULTS OF REVIEWS OF MARKET ANALYSIS, CONSUMER COMPLAINTS AND INQUIRIES, PREVIOUS EXAMINATIONS, AND PRIOR ENFORCEMENT ACTIONS .	5
DETAILS OF THE CURRENT EXAMINATION	6
SUMMARY OF EXAMINATION RESULTS	11

DEPARTMENT OF INSURANCE

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



September 29, 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:

**Unitrin Direct Insurance Company
NAIC # 10226**

Group NAIC # 0215

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

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

FOREWORD

The examination covered the claims handling practices of the aforementioned Company on Private Passenger Automobile claims closed during the period from January 1, 2012 through December 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 January 1, 2012 through December 31, 2012; a review of previous CDI market conduct claims examination reports on this Company; and a review of prior CDI enforcement actions.

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

EXECUTIVE SUMMARY OF CLAIMS SAMPLE REVIEWED

The Private Passenger Automobile claims reviewed were closed from January 1, 2012 through December 31, 2012, referred to as the “review period”. The examiners randomly selected 235 UDIC claims files for examination. The examiners cited 225 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 failure to ask if a child passenger restraint system was in use by a child during an accident or was in the vehicle at the time of a loss; failure to supply the claimant with a copy of the estimate; failure to properly advise the insured of the method in which a request for reconsideration of fault can be made; failure to provide written notice of the need for additional time or information every 30 calendar days; failure to properly advise the insured that the driver of the insured vehicle was principally at-fault for an accident; and 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.

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 2009, an enforcement action was taken in the state of Maryland. The action resulted in a \$17,500 penalty/fine. The primary issues the enforcement action alleges are failure to pay applicable vehicle transfer fees involving total losses and failure to pay the correct sales tax. The examiners focused on these issues during the course of the file review. These issues were also reflected in the results of this examination.

The Company was the subject of eight California consumer complaints and inquiries closed from January 1, 2012 through December 31, 2012, in regard to the lines of business reviewed in this examination. Of the complaints and inquiries, the CDI determined no complaints were justified. Therefore, there was no specific area of concern identified in the complaint review.

The previous claims examination reviewed a period from December 1, 2006 through November 30, 2007. The most significant noncompliance issues identified in the previous examination report were the Company's failure to include all applicable taxes, license fees and other fees incident to transfer of evidence of ownership in the settlement of a total loss vehicle; failure to include sales tax and/or fees incident to transfer of the vehicle to salvage status; failure to conduct and diligently pursue a thorough, fair and objective investigation; failure to send the principally at-fault letter; and failure to replace the child passenger restraint system that was in use by a child during the accident. With the exception of failure to include all applicable taxes and license fees in the settlement of a total loss vehicle, these issues were identified as problematic in the current examination.

UDIC was not the subject of any prior enforcement actions 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:

UDIC SAMPLE FILES REVIEW			
LINE OF BUSINESS / CATEGORY	CLAIMS IN REVIEW PERIOD	SAMPLE FILES REVIEWED	NUMBER OF ALLEGED CITATIONS
Private Passenger Automobile / Physical Damage (includes collision and comprehensive)	1,798	70	115
Private Passenger Automobile / Liability (includes bodily injury and property damage)	1,528	70	70
Private Passenger Automobile / Uninsured Motorist (includes uninsured-underinsured motorist bodily injury and uninsured motorist property damage)	189	70	35
Private Passenger Automobile / Medical Payment	266	25	5
TOTALS	3,781	235	225

TABLE OF TOTAL CITATIONS

Citation	Description of Allegation	UDIC Number of Alleged Citations
CIC §11580.011(e) *[CIC §790.03(h)(3)]	The Company failed to ask if a child passenger restraint system was in use by a child during an accident or was in the vehicle at the time of a covered loss.	65
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.	29
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.	19
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.	18
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.	8
	The determination of fault letter did not specify the basis of the liability decision.	7
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.	15
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.	12
CCR §2695.8(b)(4) *[CIC §790.03(h)(3)]	The Company failed to explain in writing the determination of the cost of a comparable vehicle at the time the settlement offer was made. Determination of the actual cash value (ACV) was not explained.	5
	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.	4
CCR §2695.7(b) *[CIC §790.03(h)(3)] <i>Third Party</i> *[CIC §790.03(h)(4)] <i>First Party</i>	The Company failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days.	7

Citation	Description of Allegation	UDIC Number of Alleged Citations
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.	7
CIC §758.6 *[CIC §790.03(h)(5)]	The Company failed to honor the methodology used in determining paint and material charges by offering or paying an amount unrelated to the particular methodology.	5
CIC §11580.011(e) *[CIC §790.03(h)(5)]	The Company failed to reimburse the claimant for the cost of purchasing a new child passenger restraint system that was in use by a child during the accident or if it sustained a covered loss while in the vehicle.	5
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.	4
CCR §2695.5(b) *[CIC §790.03(h)(2)]	The Company failed to respond to communications within 15 calendar days.	4
CIC §790.03(h)(1)	The Company misrepresented to claimants pertinent facts or insurance policy provisions relating to any coverages at issue.	2
CCR §2695.7(d) *[CIC §790.03(h)(3)]	The Company failed to conduct and diligently pursue a thorough, fair and objective investigation.	1
	The Company persisted in seeking information not reasonably required for or material to the resolution of a claims dispute.	1
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
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
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 §2695.8(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.	1

Citation	Description of Allegation	UDIC Number of Alleged Citations
CCR §2695.8(e)(2) *[CIC §790.03(h)(3)]	The Company suggested or recommended that an automobile be repaired at a specific repair shop without informing the claimant in writing of the right to select the repair facility, pursuant to CIC §758.5.	1
Total Number of Citations		94

***DESCRIPTIONS OF APPLICABLE
UNFAIR CLAIMS SETTLEMENT PRACTICES**

- CIC §790.03(h)(1) The Company misrepresented pertinent facts or insurance policy provisions relating to 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 CITATIONS BY LINE OF BUSINESS

<p align="center">PRIVATE PASSENGER AUTOMOBILE 2012 Written Premium: \$15,979,343 AMOUNT OF RECOVERIES: \$21,664.30</p>	<p align="center">NUMBER OF CITATIONS</p>
CIC §11580.011(e) [CIC §790.03(h)(3)]	65
CCR §2695.8(f) [CIC §790.03(h)(3)]	29
CCR §2632.13(e)(2) [CIC §790.03(h)(3)]	19
CCR §2695.7(c)(1) [CIC §790.03(h)(3)]	18
CCR §2632.13(e)(1) [CIC §790.03(h)(3)]	15
CCR §2695.8(c) [CIC §790.03(h)(3)]	15
CCR §2695.7(g) [CIC §790.03(h)(5)]	12
CCR §2695.8(b)(4) [CIC §790.03(h)(3)]	9
CCR §2695.7(b) [CIC §790.03(h)(3) or CIC §790.03(h)(4)]	7
CCR §2695.8(b)(1) [CIC §790.03(h)(5)]	7
CIC §758.6 [CIC §790.03(h)(5)]	5
CIC §11580.011(e) [CIC §790.03(h)(5)]	5
CCR §2695.3(a) [CIC §790.03(h)(3)]	4
CCR §2695.5(b) [CIC §790.03(h)(2)]	4
CIC §790.03(h)(1)	2
CCR §2695.7(d) [CIC §790.03(h)(3)]	2
CCR §2695.7(p) [CIC §790.03(h)(3)]	2
CIC §790.03(h)(5)	1
CCR §2695.4(a) [CIC §790.03(h)(1)]	1
CCR §2695.7(h) [CIC §790.03(h)(5)]	1
CCR §2695.8(b)(1)(A) [CIC §790.03(h)(5)]	1
CCR §2695.8(e)(2) [CIC §790.03(h)(3)]	1
SUBTOTAL	225
TOTAL	225

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 \$2,927.30 as described in section numbers 7(a), 7(b), 7(c), 7(e), 10, 11, 12, 18, and 21 below. Following the findings of the examination, closed claims surveys as described in section numbers 10, 12 and 21 below were conducted by the Company resulting in additional payments of \$18,737.00. As a result of the examination, the total amount of money returned to claimants within the scope of this report was \$21,664.30.

PRIVATE PASSENGER AUTOMOBILE

1. **In 65 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.** Specifically, in all instances, the Company failed to ask whether a child passenger restraint system (CPRS) was in the vehicle at the time of the loss. Prior to January 1, 2010, an insurer was required to ask only if a CPRS was in use at the time of the loss. The additional requirement to ask if a CPRS was in the vehicle at the time of the loss, regardless of occupancy, was added to the law by California Assembly Bill 299 which became effective January 1, 2010.

In addition to not asking whether a CPRS was in the vehicle and unoccupied at the time of the accident, in some of the 65 instances, the Company also failed to ask if a CPRS was in use by a child during the 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: In all instances, the Company acknowledges that it did not comply with the referenced insurance code. To ensure future compliance, the Company conducted remedial training with staff at the end of March 2013.

The Company states its current procedure is to inquire if a CPRS was in use at the time of the accident. Effective January 2013, the Company modified its claims procedures such that the inquiry now uses the language specified in the insurance code and the complete response is documented in the claim file. The Company also implemented a program change in the second quarter of 2013 in which the First Notice of Loss (FNOL) representative questions not only whether a CPRS was in use, but whether a CPRS was in the vehicle and unoccupied at the time of the loss.

The Company further states the following:

Since the date of the amended rule, the Company's First Notice of Loss has had an inquiry requesting a claimant provide a listing of all damaged property as warranted. This inquiry would include a listing of damage to a CPRS at the time of the accident. In addition, if for some reason, this damage is not brought up during the first notice of loss discussions, the adjuster assigned to the claim will also have discussions regarding damages. Therefore, it is very unlikely that any claimant incurred uncompensated loss.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

2. In 29 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 that while its best practice is to supply the claimant with a copy of the original estimate and any supplemental estimates, this was not done in all instances. To ensure future compliance, the Company conducted remedial training with staff at the end of March 2013 regarding the regulatory requirement to provide a copy of all estimates to vehicle owners.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

3. In 19 instances, the Company failed to properly advise the insured of the method in which a request for reconsideration of fault can be made. Specifically, the Company advised the insured, in all instances, 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: The Company acknowledges these findings and has noted the claim system already contains an updated letter template that does not include a requirement that the request be in writing. The Company has provided additional remedial direction to staff concerning proper use of the new letter template and the requirements for reconsideration of the principally at fault determination.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

4. In 18 instances, the Company failed to provide written notice of the need for additional time or information every 30 calendar days. The Department alleges these acts are in violation of CCR §2695.7(c)(1) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company acknowledges that while its best practice is to provide the additional time letter(s) within 40 days from receipt of proof of claim, and every 30 days thereafter, the status letters were not sent in these instances. To ensure future compliance, the Company conducted remedial training with staff at the end of March 2013 regarding the regulatory requirement to send status letters.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

5. In 15 instances, the Company failed to properly advise the insured that the driver of the insured vehicle was principally at-fault for an accident. Eight instances involved the failure to send the determination of fault notice. The other seven instances involved the failure to state the basis of the liability determination. The Department alleges these acts are in violation of CCR §2632.13(e)(1) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: As a result of these findings, the Company has sent an at-fault letter to the insured in the eight identified instances in

which an at-fault letter was not sent. In the remaining seven instances, the Company acknowledges that while the letters were sent, the Company failed to state the basis of the liability determination in the letters. To ensure future compliance, the Company conducted remedial training with staff at the end of March 2013 regarding the regulatory requirement to send the principally at-fault notice and to include the basis of the liability determination in the letter.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

6. In 15 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 that while its best practice is to include language in its total loss settlement letters advising the insured that the Company will reopen the claim if the insured cannot find a comparable car within 35 days, this was not done in these instances. As a result of the findings of the examination, the Company updated its system letters to include this language. Additionally, to ensure future compliance, the Company conducted remedial training with staff at the end of March 2013 regarding this requirement.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

7. In 12 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).

7(a). In eight instances involving Company-retained and owner-retained total loss vehicles, the Company based both the total loss settlement offer and the final settlement on the high salvage quote (identified as High Quote) determined by the software (known as ProQuote) utilized by Copart Salvage Auto Auctions. Although the salvage amount offered and/or deducted from the total loss is an amount for which Copart will purchase the vehicle, the practice of deducting the High Quote salvage amount resulted in a low settlement offer or in a low final settlement.

Summary of the Company's Response to 7(a): The Company believes it is in complete compliance with the statutes and rules regarding salvage. The Company has demonstrated that ProQuote will purchase the salvage for the amount that is deducted pursuant to CCR §2695.8(b)(1)(A). However, in the interest of resolving this issue and to demonstrate the Company's willingness to cooperate with the Department, the Company has amended its procedure going forward to utilize the ProQuote bid, rather than the High Quote, when calculating deductions for owner-retained salvage. Of the

eight instances, one was owner-retained. As a result of the findings of the examination, the Company issued payment to the vehicle owner totaling \$229.72.

7(b). In one instance, the Company rated the vehicle paint as average condition in evaluating the total loss. The evidence supported that the rating was above average condition. This resulted in a low settlement amount.

Summary of the Company's Response to 7(b): As a result of the findings of the examination, the Company issued payment of \$62.00. To ensure future compliance, the Company conducted remedial training with staff at the end of March 2013.

7(c). In one instance, the Company deducted 25% of the unrelated property damage from the total loss settlement on a 23 year old vehicle resulting in an underpayment. The vehicle photographs related to the unrelated property damage supported normal wear and tear for a 23 year old vehicle.

Summary of the Company's Response to 7(c): As a result of the findings of the examination, the Company issued payment of \$244.88.

7(d). In one instance, the Company evaluated the insured's total loss using a mileage greater than the loss vehicle's actual mileage, which resulted in a total loss offer that was unreasonably low. This was corrected prior to the Department's review of this claim.

Summary of the Company's Response to 7(d): The Company acknowledges this finding and agrees the actual cash value (ACV) was originally calculated using the higher mileage. However, the adjuster caught and then corrected this error. The ACV was re-run using the lower mileage increasing the total loss value. The insured was advised of the error and the revised ACV in writing.

7(e). In the remaining instance, the Company applied an 8% sales tax when the correct sales tax was 9%, resulting in an underpayment.

Summary of the Company's Response to 7(e): As a result of the findings of the examination, the Company issued payment of \$20.79. While this inadvertent error was not representative of Company procedure, the Company conducted remedial training with staff at the end of March 2013 to ensure future compliance.

The Company states its acknowledgement of findings to 7(b), 7(c), 7(d) and 7(e) above do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

8. In nine instances, the Company failed to comply with the requirements of CCR §2695.8(b)(4) on total loss settlements. The Department alleges these acts are

in violation of CCR §2695.8(b)(4) and are unfair practices under CIC §790.03(h)(3). The breakdown is as follows:

8(a). In five instances, the Company failed to explain in writing the determination of the cost of a comparable vehicle at the time the settlement offer was made. Determination of the actual cash value (ACV) was not explained. Specifically, the Company failed to explain how it arrived at the ACV either by sending a copy of the computerized automobile valuation (CCC) or some other means of explaining the ACV in writing.

8(b). In the remaining four 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 or computed.

Summary of the Company's Response to 8(a) and 8(b): The Company acknowledges that, while its best practice is to provide a copy of the CCC valuation and to provide a settlement letter explaining the determination of the cost of a comparable vehicle including itemization of all settlement components and deductions/adjustments, this was not done in all instances. As a result of these findings, the Company sent total loss letters in the identified claims. In some instances, the letters were drafted, but never sent. This was due to inadvertent errors on the part of the adjuster when processing the letters. In these instances, the issue was also addressed with the handling adjuster and supervisor. To ensure future compliance, the Company conducted remedial training with staff at the end of March 2013 regarding the regulatory requirement to explain, in writing, the determination of the ACV and to itemize all components in the total loss settlement letter.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

9. In seven instances, the Company failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days. Five of these instances involved first party claims and two of these instances involved third party claims. The Department alleges these acts are in violation of CCR §2695.7(b) and are unfair practices under CIC §790.03(h)(3) or CIC §790.03(h)(4).

Summary of the Company's Response: The Company acknowledges that, while its best practice is to accept or deny all claims within 40 days after receipt of proof of claim, the procedure was not followed in these instances. To ensure future compliance, the Company conducted remedial training with staff at the end of March 2013 regarding the regulatory requirement to accept or deny the claim within 40 days after receipt of proof of claim.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

10. In seven instances, the Company failed to include, in the settlement, the one-time fees incident to transfer of evidence of ownership of a comparable vehicle. 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: As a result of the findings of the examination, the Company issued payments totaling \$110.00. To ensure future compliance, the Company conducted remedial training with staff at the end of March 2013.

In response to the concern that the Company may have overlooked the payment of the one-time fee incident to transfer of title for Company-retained total loss settlements, the Company conducted an internal survey of such claims that were closed from November 01, 2009 through March 01, 2012. The date range represents the period of time that the Company's total losses were being handled by staff in a particular location that was not including the one-time fee. The Company completed the survey and reported the results to the Department on July 19, 2013. The Company identified 835 claims in which the transfer of title fee was owed and not paid during the survey period. As a result of the survey, the Company issued payments totaling \$12,514.00.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

11. In five instances, the Company failed to honor the methodology used in determining paint and material charges by offering or paying an amount unrelated to the particular methodology. Specifically, in all instances, the Company imposed limits of \$450.00, \$500.00 or \$550.00 for the cost of paint and material used in the repair of the vehicle. California Senate Bill 1371 added section 758.6 to the Insurance Code prior to the review period for this examination. The Bill stipulates that paint and material charges are to be calculated by multiplying the refinish unit times the refinish rate. Additional accepted industry methodologies that are available involve software programs, which calculate the paint and materials charges. "Capping" means offering or paying an amount that is unrelated to a methodology used in determining paint and materials charges accepted by automobile repair shops and insurers. "Capping" occurs when the cost of paint and related materials determined by any of these accepted industry methodologies is not utilized by the Company. The Department alleges these acts are in violation of CIC §758.6 and are unfair practices under CIC §790.03(h)(5).

Summary of the Company's Response: The Company believes it is clear that it does not impose any hard "cap" on painting and materials. The Company sets a threshold amount to begin negotiations with auto body dealers. The Company indicates the threshold amounts are better described as flags that note the issue for closer attention. The thresholds set fair and reasonable estimates of the cost of painting and materials, and this method is accepted in the industry and by repair shops. Further, the Company has paid higher than its threshold amounts in many claims, confirming that the Company does not cap what it will pay for paint and materials. Therefore, the Company does not believe its handling is in violation of the law. However, in order to resolve this issue and demonstrate cooperation, the Company has amended its procedure going forward by utilizing the formula noted above without any thresholds on those amounts. As a result of the findings of the examination, the Company issued payments totaling \$696.80.

12. In five instances, the Company failed to reimburse the claimant for the cost of purchasing a new child passenger restraint system (CPRS) that was in use by a child during the accident or if it sustained a covered loss while in the vehicle. Specifically, in all instances, the Company failed to pay for a CPRS when the Company identified the presence of a CPRS, but either did not address the issue with the insured/claimant or did not reimburse the CPRS until it received a receipt as proof of replacement. The Department alleges these acts are in violation of CIC §11580.011(e) and are unfair practices under CIC §790.03(h)(5).

Summary of the Company's Response: The Company believes it was in compliance with the terms of the statute in requesting such receipt and believes that the request was reasonable to prove the claim. However, because the statute provides no guidance as to acceptable proof of claim for a CPRS, the Company updated its claim procedures and will not require proof of replacement of the CPRS in order to issue reimbursement. As a result of the findings of the examination, the Company issued payments totaling \$545.11. To ensure future compliance, the Company conducted remedial training with staff at the end of March 2013.

In response to the concern that the Company may have overlooked the payment of the CPRS and because it was the Company's standard operating procedure to request a receipt, the Company conducted an internal survey of claims with a date of loss from March 15, 2012 through March 14, 2013, in which the adjuster identified the presence or use of a CPRS in the vehicle at the time of loss. The date range of this audit represents the period of time that the Company can reasonably identify those claims in which a CPRS was involved. The Company completed the survey and reported the results to the Department on July 19, 2013. The Company identified 54 claims in which the CPRS was owed and not paid during the survey period. As a result of the survey, the Company issued payments totaling \$6,028.00.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

13. In four instances, the Company failed to maintain all documents, notes and work papers which reasonably pertain to each claim in such detail that pertinent events and the dates of the events can be reconstructed. Specifically, in three instances, the Company failed to maintain copies of letters that were sent and failed to scan all incoming mail to the appropriate imaging system. In the remaining instance, the Company failed to document the reason for two different total loss evaluation reports in the file and to document the rationale for using one over the other. The Department alleges these acts are in violation of CCR §2695.3(a) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: The Company acknowledges these findings. To ensure future compliance, the Company conducted remedial training with staff at the end of March 2013 regarding the regulatory requirement to maintain all documents and to document activity and analysis in the claim notes in such detail that pertinent events and event dates can be reconstructed.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

14. In four 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 acknowledges that while its best practice is to respond to communications within 15 days, this was not done in these instances. To ensure future compliance, the Company conducted remedial training with staff at the end of March 2013 regarding this requirement.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

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

15(a). In one instance, the statute of limitations (SOL) period was misrepresented as a "two or three year period" in a letter regarding an uninsured motorist bodily injury claim.

Summary of the Company's Response to 15(a): The Company acknowledges the letter incorrectly informs the insured of the SOL. While this inadvertent error was not representative of Company procedure, the Company conducted remedial training with staff at the end of March 2013 to ensure future compliance.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

15(b). In the second instance involving a vandalism claim, the Company's letter to the insured included an Affidavit of Vandalism form and incorrectly stated that the form was "required by the Department of Insurance".

Summary of the Company's Response to 15(b): The Company provides the following response to this issue:

The Company does not agree that its letter is a violation of law; however, the Company no longer utilizes an affidavit of vandalism that states the Department of Insurance requires the form. A copy of the revised form has been provided.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

16. In two instances, the Company failed to comply with the requirements of CCR §2695.7(d). The Department alleges these acts are in violation of CCR §2695.7(d) and are unfair practices under CIC §790.03(h)(3). The breakdown is as follows:

16(a). In one instance, the Company failed to conduct and diligently pursue a thorough, fair and objective investigation. Specifically, the Company failed to obtain the vehicle mileage when obtaining a vehicle valuation report.

Summary of the Company's Response to 16(a): The Company acknowledges this finding. When the appraiser is not able to visibly confirm the vehicle mileage at time of inspection, Company procedure is for the adjuster to follow up to research the mileage by other means although this did not take place in this instance. This was an unintentional error and was not representative of Company procedure. To ensure future compliance, the Company conducted remedial training with staff at the end of March 2013.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

16(b). In the remaining instance, the Company persisted in seeking information not reasonably required for or material to the resolution of a claims

dispute. Specifically, the Company persisted in requesting vehicle photographs from the other carrier when the Company had inspected and secured photos of the vehicle prior to its request to the other carrier.

Summary of the Company's Response to 16(b): The Company acknowledges this finding. This was an unintentional error and was not representative of Company procedure. To ensure future compliance, the Company conducted remedial training with staff at the end of March 2013.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

17. In two 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).

Summary of the Company's Response: The Company acknowledges that, while its best practice is to send a subrogation intent letter, this was not done in both instances. As a result of the findings of the examination, the Company sent subrogation intent letters to both insureds. Additionally, to ensure future compliance, the Company conducted remedial training with staff at the end of March 2013 regarding this requirement.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

18. In one instance, the Company failed to effectuate prompt, fair and equitable settlements of claims in which liability had become reasonably clear. Specifically, once the Company confirmed the host vehicle in which the insured was a passenger did not carry any medical payment coverage, the Company failed to provide medical payment coverage under the insured's policy. The Department alleges this act is in violation of CIC §790.03(h)(5).

Summary of the Company's Response: As a result of the findings of the examination, the Company issued payment of \$1,000.00 representing the medical payment coverage limit. To ensure future compliance, the Company conducted remedial training with staff at the end of March 2013.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

19. In one instance, the Company failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy. 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 best practice is to review all benefits, coverage, time limits and other provisions with the insured at the time of contact, there is no documentation to support that it was done in this instance. To ensure future compliance, the Company conducted remedial training with staff at the end of March 2013 regarding this requirement.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

20. In one instance, the Company failed, upon acceptance of the claim, to tender payment within 30 calendar days. Specifically, a telephone release was obtained and payment was issued more than 30 days after acceptance of the 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 that while its best practice is to tender payment within 30 calendar days of acceptance of the claim, this was not done in this instance. To ensure future compliance, the Company conducted remedial training with staff at the end of March 2013 regarding this requirement.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

21. In one instance, the Company failed to include, in the settlement, fees incident to the transfer of the vehicle to salvage status. 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)(5).

Summary of the Company's Response: As a result of the findings of the examination, the Company issued payment of \$18.00. To ensure future compliance, the Company conducted remedial training with staff at the end of March 2013.

In response to the concern that the Company may have overlooked the payment of the salvage certificate fee for owner retained total loss settlements or may have paid an amount lower than the \$18.00 owed during this time period, the Company conducted an internal survey of such claims that were closed from November 01, 2009 through March 01, 2012. The date range represents the period of time that the Company's total losses were being handled by staff in a particular location that was not including the salvage certificate fee. The Company completed the survey and reported the results to

the Department on July 19, 2013. The Company identified 73 claims in which the salvage certificate fees were owed and not paid during the survey period. As a result of the survey, the Company issued payments totaling \$195.00.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.

22. In one instance, the Company suggested or recommended that an automobile be repaired at a specific repair shop without informing the claimant in writing of the right to select the repair facility, pursuant to CIC §758.5. The Department alleges this act is in violation of CCR §2695.8(e)(2) and is an unfair practice under CIC §790.03(h)(3).

Summary of the Company's Response: The Company acknowledges this finding. To ensure future compliance, the Company conducted remedial training with staff at the end of March 2013 regarding this requirement.

The Company states its acknowledgement of findings do not constitute acceptance of the Department's allegations of a pattern and practice nor do they generally constitute an acknowledgement of a violation of law.