

**[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**

**SENECA INSURANCE COMPANY
NAIC # 10936 CDI # 2330-9**

AS OF March 31, 2014

ADOPTED JUNE 19, 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



June 19, 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:

**Seneca Insurance Company
NAIC # 10936**

Group NAIC # 0158

Hereinafter, the Company listed above also will be referred to as SIC, 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 claims closed during the period from April 1, 2013 through March 31, 2014. The examination was made to discover, in general, if these and other operating procedures of the Company conform to the contractual obligations in the policy forms, the California Insurance Code (CIC), the California Code of Regulations (CCR) and case law.

The report is written in a “report by exception” format. The report does not present a comprehensive overview of the subject insurer’s practices. The report contains a summary of pertinent information about the lines of business examined, details of the non-compliant or problematic activities that were discovered during the course of the examination and the insurer’s proposals for correcting the deficiencies. When a violation that reflects an underpayment to the claimant is discovered and the insurer corrects the underpayment, the additional amount paid is identified as a recovery in this report. While this report contains violations of law that were cited in this report by the examiners, additional violations of CIC §790.03, or other laws, not cited in this report may also apply to any or all of the non-compliant or problematic activities that are described herein.

All unacceptable or non-compliant activities may not have been discovered. Failure to identify, comment upon or criticize non-compliant practices in this state or other jurisdictions does not constitute acceptance of such practices.

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

SCOPE OF THE EXAMINATION

To accomplish the foregoing, the examination included:

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

2. A review of the application of such guidelines, procedures, and forms, by means of an examination of a sample of individual 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 April 1, 2013 through March 31, 2014; and a review of previous CDI market conduct claim examination reports on this Company.

The review of the sample of individual claims files was conducted at the offices of the California Department of Insurance in Los Angeles, California.

EXECUTIVE SUMMARY OF CLAIMS SAMPLE REVIEWED

The claims reviewed were closed from April 1, 2013 through March 31, 2014, referred to as the “review period”. The examiner randomly selected 87 SIC claims files for examination. The examiners cited 13 alleged claims handling violations of the California Insurance Code and other specified codes from this sample file review.

Findings of this examination included failing to properly document the basis for depreciation applied, failing to include the insured’s deductible and co-insurance penalty in subrogation demands and failing to inquire about child passenger restraint systems at the time of the loss.

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

The Company was the subject of six California consumer complaints and inquiries closed from April 1, 2013 through March 31, 2014, in regard to the lines of business reviewed in this examination. There was no specific area of concern identified in the complaint review.

There have been no prior claims examinations conducted upon this Company.

DETAILS OF THE CURRENT EXAMINATION

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

SIC SAMPLE FILES REVIEW			
LINE OF BUSINESS / CATEGORY	CLAIMS IN REVIEW PERIOD	SAMPLE FILES REVIEWED	NUMBER OF ALLEGED VIOLATIONS
Commercial Automobile / Liability	39	31	2
Commercial Multi-Peril / First Party Property	50	36	7
Fire and Allied	11	11	2
Inland Marine	10	9	2
TOTALS	110	87	13

TABLE OF TOTAL CITATIONS

Citation	Description of Allegation	SIC Number of Alleged Violations
CCR §2695.9(f) *[CIC §790.03(h)(3)]	The Company failed to document the basis of betterment, depreciation, or salvage. The basis for any adjustment shall be fully explained to the claimant in writing.	4
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
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. The Company made coverage changes on a policy that was in place for more than 60-days and failed to send a written notification of the policy changes as required. These changes resulted in an improper denial.	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.	2
CCR §2695.7(q) *[CIC §790.03(h)(3)]	The Company failed to include the insured's deductible in the subrogation demand.	1
CCR §2695.7(b)(3) *[CIC §790.03(h)(3)]	The Company failed to reference the California Department of Insurance in its claims denial.	1
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.	1
CIC §2057 *[CIC §790.03(h)(4)]	The Company failed to include interest at the prevailing legal rate on payments made over 30 days.	1
Total Number of Alleged Violations		13

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

- 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

COMMERCIAL AUTO LIABILITY 2013 Written Premium: \$152,273	NUMBER OF VIOLATIONS
CIC §11580.011(e) [CIC §790.03(h)(3)]	2
SUBTOTAL	2

COMMERCIAL MULTIPLE PERIL 2013 Written Premium: \$3,331,388	NUMBER OF VIOLATIONS
CCR §2695.9(f) [CIC §790.03(h)(3)]	4
CCR §2695.7(q) [CIC §790.03(h)(3)]	1
CCR §2695.7(h) [CIC §790.03(h)(5)]	1
CIC §2057 [CIC §790.03(h)(4)]	1
SUBTOTAL	7

FIRE AND ALLIED 2013 Written Premium: \$711,545	NUMBER OF VIOLATIONS
CIC §790.03(h)(3)	1
CCR §2695.7(b)(3) [CIC §790.03(h)(3)]	1
SUBTOTAL	2

INLAND MARINE 2013 Written Premium: -\$29,822	NUMBER OF VIOLATIONS
CCR §2695.7(c)(1) [CIC §790.03(h)(3)]	1
CCR §2695.7(h) [CIC §790.03(h)(5)]	1
SUBTOTAL	2
TOTAL	13

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 \$689.18 as described in section number 5 below. Following the findings of the examination, a closed claims survey as described in section 5 below was also conducted by the Company resulting in additional payments of \$441.90, for a total of \$1,131.08.

COMMERCIAL AUTOMOBILE LIABILITY

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

Summary of the Company's Response: The Company agrees in both instances there was a failure to inquire about the usage of a child restraint system at the time of the losses. The Company states a reminder was sent to all adjusters that inquiries into the usage of a child restraining system are to be sent at the time of a loss.

COMMERCIAL MULTI-PERIL

2. In four instances, 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 for betterment or depreciation shall reflect a measurable difference in market value attributable to the condition and age of the property. 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 acknowledges the findings, indicating that the information regarding the age, condition and useful life of the property item was not stated on the estimate, as is required by the Company's standard procedure. As a result of this examination the Company sent a memorandum to all adjusters reinforcing procedures and the regulation requirement.

3. In one instance, the Company failed to include the insured's deductible in the subrogation demand. The Department alleges this act is in violation of CCR §2695.7(q) and is an unfair practice under CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees in one instance the insured's deductible was not included in the subrogation. Following the examination, the Company states it sent an email to all property and casualty adjusters directing them to include the insured's deductible, and any penalty amounts, in all subrogation demand letters. This notice was sent December 5, 2014.

4. In one instance, the Company failed, upon acceptance of the claim, to tender payment within 30 calendar days. In one instance the Company received proof of claim on November 15, 2013, and issued payment on January 14, 2014, 60 days later. 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 agrees in one instance the file had fallen off diary. To ensure future compliance Seneca added additional staff to assist with high pending's that was experienced the year after Super Storm Sandy. As a result of this examination, going forward all, Seneca Examiners will have shorter diaries and follow up with the support staff on all payments.

5. In one instance, the Company failed to include interest at the prevailing legal rate on payments made over 30 days. The Department alleges this act is in violation of CIC §2057 and is an unfair practice under CIC §790.03(h)(5).

Summary of the Company's Response: The Company agrees with the findings and counseled the adjuster on the issuance of payment checks. Further, the Company re-evaluated the claim and paid interest due in the amount of \$261.58. Additionally, the Company conducted a self-survey to determine how many claims were

owed interest and not paid during the examination window period, and the two years prior, April 1, 2011 through March 31, 2013. For the examination window period the Company determined 17 claims were paid late and issued \$689.18 in interest payments. For the two years prior to the examination window period, the Company determined 9 claims were paid late and issued \$441.90 in interest payments.

FIRE AND ALLIED

6. In one instance, the Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies. In one instance a policy change that excluded theft was made to an insured's policy. The effective date of the change was more than 60 days from the policy effective date, and the required written notice was not sent. This resulted in an improper denial and subsequent litigation which resulted in settlement and payment of the original claim. The Department alleges this act is in violation of CIC §790.03(h)(3).

Summary of the Company's Response: The Company agrees the insured's policy was in effect more than 60 days when the policy changes became effective and that those policy changes were not provided in written form. As a result, the claim was improperly denied and subsequently reprocessed and paid. The Company has reinforced statutory requirements with its claims handling staff to ensure proper claims adjudication.

7. In one instance, the Company failed to reference the California Department of Insurance in its claims denial. 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: The Company agrees that its acknowledgement of a broker's notice pertaining to a claim that was erroneously submitted to Seneca constituted a denial letter, and therefore must contain the required Department of Insurance language. As a result of this examination the Company sent a memorandum to all adjusters reinforcing regulation requirements.

INLAND MARINE

8. In one instance, the Company failed, upon receiving proof of claim, to accept or deny the claim within 30 calendar days. In one instance the coverage issue was resolved on November 5, 2013, and the payment was issued on December 18, 2013, 43 days later. The Department alleges this act is in violation of CCR §2695.7(h) and is an unfair practices under CIC §790.03(h)(5).

Summary of the Company's Response: The Company admits in one instance the coverage issue was resolved on November 5, 2013 and the payment was

issued on December 18, 2013, 43 days later. To ensure future compliance Seneca added additional staff to assist with high volume of pending claims that was experienced the year after Super Storm Sandy. Company management stated, "Going forward Seneca Examiners will have shorter diaries and follow up with the support staff on all payments."

9. In one instance, the Company failed to provide written notice of the need for additional time or information every 30 calendar days. The Company failed to provide a 30-day status notice to the insured between August 31, 2013 and October 17, 2013. 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: The Company agrees a 30-day status letter was not sent between August 31, 2013 and October 17, 2013. The Company has implemented a shorter diary system for follow-ups. Also, a memorandum was sent to all Examiners regarding the compliance of CCR 2695.7(c)(1).