

**[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**

**ZURICH AMERICAN INSURANCE COMPANY  
NAIC # 16535 CDI # 4851-5  
AMERICAN ZURICH INSURANCE COMPANY  
NAIC # 40142 CDI # 2931-4  
AMERICAN GUARANTEE & LIABILITY INSURANCE COMPANY  
NAIC # 26247 CDI # 1237-7  
ZURICH AMERICAN INSURANCE COMPANY OF ILLINOIS  
NAIC # 27855 CDI #3024-7**

**AS OF AUGUST 31, 2013**

**ADOPTED AUGUST 28, 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



August 28, 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:

**Zurich American Insurance Company**  
**NAIC # 16535**  
**American Zurich Insurance Company**  
**NAIC # 40142**  
**American Guarantee & Liability Insurance Company**  
**NAIC # 26247**  
**Zurich American Insurance Company of Illinois**  
**NAIC # 27855**  
**Group NAIC # 0212**

Hereinafter, the Companies listed above also will be referred to as ZAIC, AZIC, AGLIC, ZAICI or, collectively, as the Companies. This report is made available for public inspection and is published on the California Department of Insurance website ([www.insurance.ca.gov](http://www.insurance.ca.gov)) pursuant to California Insurance Code section 12938(b)(1).

## FOREWORD

The examination covered the claims handling practices of the aforementioned Companies on Commercial Auto, Commercial Property, Accident & Disability and Workers' Compensation claims closed during the period from September 1, 2012 through August 31, 2013, and claims open as of October 11, 2013. The examination was made to discover, in general, if these and other operating procedures of the Companies 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 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 Companies' 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 Companies for use in California including any documentation maintained by the Companies 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 these Companies closed by the CDI during the period September 1, 2012 through August 31, 2013; and a review of previous CDI market conduct claims examination reports on these Companies.

The review of the sample of individual claims files was conducted at the Zurich North America office in Rancho Cordova, California.

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

The Commercial Auto, Commercial Property, Accident & Disability and Workers' Compensation claims reviewed were closed from September 1, 2012 through August 31, 2013, referred to as the "review period", and Workers' Compensation claims open as of October 11, 2013. The examiners randomly selected 226 ZAIC claims files, 38 AZIC claims files, 13 AGLIC claims files and 11 ZAICI claims files for examination. The examiners cited 334 alleged claims handling violations of the California Insurance Code and California Fair Claims Settlement Regulations from this sample file review.

Findings of this examination included delays in payment of medical bills and non-payment of penalty and interest on late paid claims.

## **RESULTS OF REVIEWS OF MARKET ANALYSIS, CONSUMER COMPLAINTS AND INQUIRIES, AND PREVIOUS EXAMINATIONS**

The results of the market analysis review revealed that during 2011, an enforcement action was taken in the state of Maryland. The action alleged improper claims handling. The examiners focused on this issue during the course of the file review. This issue is also reflected in the results of this examination.

The Companies were the subject of 27 California consumer complaints and inquiries closed from September 1, 2012 through August 31, 2013, in regard to the lines of business reviewed in this examination. The CDI alleged three violations of law including one instance each of missing documentation, a denial not made in writing and no CDI language included on a denial. Of the complaints and inquiries, the CDI determined two complaints were justified. The examiners focused on these issues during the course of the file review.

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

## DETAILS OF THE CURRENT EXAMINATION

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

<b>ZAIC SAMPLE FILES REVIEW</b>			
<b>LINE OF BUSINESS / CATEGORY</b>	<b>CLAIMS IN REVIEW PERIOD</b>	<b>SAMPLE FILES REVIEWED</b>	<b>NUMBER OF ALLEGED VIOLATIONS</b>
Commercial Auto / Collision	1000	49	32
Commercial Auto / Comprehensive	154	8	8
Commercial Auto / Property Damage	2551	31	24
Commercial Auto / Bodily Injury	863	9	15
Commercial Auto / Uninsured Motorist Bodily Injury / Underinsured Motorist	23	23	22
Commercial Auto / Med Pay	18	3	2
Commercial Auto / Garage keepers	28	6	2
Commercial Property / Boiler & Machinery	138	2	0
Commercial Property / Burglary	10	1	1
Commercial Property / Property	561	6	3
Accident and Disability / Critical Illness	1	1	0
Accident and Disability / Group Accident	76	18	66
Accident and Disability / Group AD&D	35	9	2
Accident and Disability / Med Stop Loss-Health	43	11	0

Accident and Disability / Group Wellness	1	1	0
Accident and Disability / Group Occupation Medical	82	20	66
Accident and Disability / Group Occupation Wage	44	10	3
Workers' Compensation / Indemnity	1790	2	1
Workers' Compensation / Medical	5082	10	8
Workers' Compensation / Denied	301	1	0
Workers' Compensation / Open	3897	5	0
<b>TOTALS</b>	16,698	226	255

<b>AZIC SAMPLE FILES REVIEW</b>			
<b>LINE OF BUSINESS / CATEGORY</b>	<b>CLAIMS IN REVIEW PERIOD</b>	<b>SAMPLE FILES REVIEWED</b>	<b>NUMBER OF ALLEGED VIOLATIONS</b>
Commercial Auto / Collision	25	1	0
Commercial Auto / Comprehensive	8	1	1
Commercial Auto / Property Damage	53	1	0
Commercial Auto / Bodily Injury	17	1	3
Commercial Property / Boiler & Machinery	6	1	0
Commercial Property / Property	136	2	0
Workers' Compensation / Indemnity	2542	5	9
Workers' Compensation / Medical	7528	15	8
Workers' Compensation / Denied	607	1	0
Workers' Compensation / Open	7322	10	40
<b>TOTALS</b>	18,244	38	61

<b>AGLIC SAMPLE FILES REVIEW</b>			
<b>LINE OF BUSINESS / CATEGORY</b>	<b>CLAIMS IN REVIEW PERIOD</b>	<b>SAMPLE FILES REVIEWED</b>	<b>NUMBER OF ALLEGED VIOLATIONS</b>
Commercial Auto / Collision	73	2	3
Commercial Auto / Comprehensive	9	1	5
Commercial Auto / Property Damage	125	1	0
Commercial Auto / Bodily Injury	42	1	1
Commercial Auto / Uninsured Motorist Bodily Injury / Underinsured Motorist	1	1	0
Commercial Auto / Med Pay	1	1	0
Commercial Property / Boiler & Machinery	2	1	0
Commercial Property / Property	26	1	0
Workers' Compensation / Indemnity	146	1	0
Workers' Compensation / Medical	387	1	0
Workers' Compensation / Denied	22	1	0
Workers' Compensation / Open	527	1	5
<b>TOTALS</b>	1,361	13	14

<b>ZAICI SAMPLE FILES REVIEW</b>			
<b>LINE OF BUSINESS / CATEGORY</b>	<b>CLAIMS IN REVIEW PERIOD</b>	<b>SAMPLE FILES REVIEWED</b>	<b>NUMBER OF ALLEGED VIOLATIONS</b>
Commercial Auto / Collision	46	1	0
Commercial Auto / Comprehensive	9	1	4
Commercial Auto / Property Damage	84	1	0
Commercial Auto / Bodily Injury	41	1	0
Commercial Auto / Uninsured Motorist Bodily Injury / Underinsured Motorist	2	2	0
Commercial Auto / Med Pay	1	1	0
Commercial Property / Inland Marine	2	1	0
Workers' Compensation / Indemnity	44	1	0
Workers' Compensation / Medical	86	1	0
Workers' Compensation / Open	114	1	0
<b>TOTALS</b>	429	11	4

## TABLE OF TOTAL VIOLATIONS

Citation	Description of Allegation	ZAIC Number of Alleged Violations	AZIC Number of Alleged Violations	AGLIC Number of Alleged Violations	ZAICI Number of Alleged Violations
CIC §790.03(h)(5)	The Company failed to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.	116	54	1	0
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.	26	0	0	0
CCR §2695.5(b) *[CIC §790.03(h)(2)]	The Company failed to respond to communications within 15 calendar days.	10	0	0	0
CCR §2695.11(b) *[CIC §790.03(h)(3)]	The Company failed to provide to the claimant an explanation of benefits including the name of the provider or services covered, the dates of service, and a clear explanation of the computation of benefits.	9	0	0	0
CIC §1879.2(a) *[CIC §790.03(h)(3)]	The Company failed to include the California fraud warning on insurance forms.	9	0	0	0
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.	3	2	2	0
CCR §2695.7(d) *[CIC §790.03(h)(3)]	The Company failed to conduct and diligently pursue a thorough, fair and objective investigation.	6	1	0	0
CIC §790.03(h)(2)	The Company failed to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.	1	3	4	0
CCR §2695.7(b) *[CIC §790.03(h)(4)]	The Company failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days.	6	0	0	0

<b>Citation</b>	<b>Description of Allegation</b>	<b>ZAIC Number of Alleged Violations</b>	<b>AZIC Number of Alleged Violations</b>	<b>AGLIC Number of Alleged Violations</b>	<b>ZACI Number of Alleged Violations</b>
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.	3	0	0	0
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.	5	0	0	0
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	0	1	0
CIC §1871.3(a) *[CIC §790.03(h)(3)]	The Company failed to secure a theft affidavit from the insured.	4	0	1	0
CCR §2695.8(b)(1) *[CIC §790.03(h)(5)]	The Company failed to include, in the settlement, the license fee and other annual fees computed based upon the remaining term of the current registration.	3	0	0	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.	4	0	0	0
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.	2	1	1	0
CIC §880 *[CIC §790.03(h)(3)]	The Company failed to conduct its business in its own name.	7	0	0	0
CCR §2695.8(b)(1)(A) *[CIC §790.03(h)(3)]	The Company failed to disclose in writing to the claimant that notice of the salvage retention by the claimant must be provided to the Department of Motor Vehicles and that this notice may affect the loss vehicle's future resale and/or insured value.	3	0	0	0

<b>Citation</b>	<b>Description of Allegation</b>	<b>ZAIC Number of Alleged Violations</b>	<b>AZIC Number of Alleged Violations</b>	<b>AGLIC Number of Alleged Violations</b>	<b>ZACI Number of Alleged Violations</b>
CIC §790.03(h)(1)	The Company misrepresented to claimants pertinent facts or insurance policy provisions relating to any coverages at issue.	3	0	0	0
CCR §2695.7(b) *[CIC §790.03(h)(3)]	The Company failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days.	3	0	0	0
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	0	1	0
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.	2	0	1	0
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.	1	0	1	1
CCR §2695.5(e)(1) *[CIC §790.03(h)(2)]	The Company failed to acknowledge notice of claim within 15 calendar days.	2	0	0	0
CCR §2695.5(e)(3) *[CIC §790.03(h)(3)]	The Company failed to begin investigation of the claim within 15 calendar days.	2	0	0	0
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.	2	0	0	0
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.	1	0	0	0
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	0	0	0

Citation	Description of Allegation	ZAIC Number of Alleged Violations	AZIC Number of Alleged Violations	AGLIC Number of Alleged Violations	ZAICI Number of Alleged Violations
CCR §2695.8(b)(1)(A) *[CIC §790.03(h)(3)]	The Company failed to inform the claimant of his or her right to seek a refund of the unused license fees from the Department of Motor Vehicles.	2	0	0	0
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.	2	0	0	0
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	0	0	0
CCR §2695.9(f) *[CIC §790.03(h)(5)]	The Company improperly applied betterment or depreciation to property not normally subject to repair and replacement during the useful life of the property.	2	0	0	0
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.	1	0	0	1
CCR §2695.5(e)(2) *[CIC §790.03(h)(3)]	The Company failed to provide necessary forms, instructions, and reasonable assistance within 15 calendar days.	1	0	0	0
CCR §2695.7(b)(1) *[CIC §790.03(h)(3)]	The Company failed to deny, dispute or reject a third party claim in writing.	1	0	0	0
CCR §2695.8(b)(1) *[CIC §790.03(h)(5)]	The Company failed to include, in the settlement, all applicable taxes.	2	0	0	1
CCR §2695.9(f) *[CIC §790.03(h)(3)]	The Company failed to fully explain the basis for any adjustment to the claimant in writing.	1	0	0	0
CIC §1871.3(d)(3) [CIC §790.03(h)(3)]	The Company failed to retain a copy of the police report of a vehicle theft for at least three years.	0	0	1	0
<b>Total Number of Alleged Violations</b>		<b>255</b>	<b>61</b>	<b>14</b>	<b>4</b>

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

- |                   |  |
|-------------------|--|
| 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 ALLEGED VIOLATIONS BY LINE OF BUSINESS**

<b>COMMERCIAL AUTO</b> 2012 Written Premium: \$72,149,524.00  AMOUNT OF RECOVERIES                      \$259,837.13	<b>NUMBER OF ALLEGED VIOLATIONS</b>
CCR §2695.7(c)(1) [CIC §790.03(h)(13)]	26
CCR §2695.5(b) [CIC §790.03(h)(2)]	10
CCR §2695.8(b)(4) [CIC §790.03(h)(3)]	8
CCR §2695.8(b)(1)(A) [CIC §790.03(h)(3)]	7
CCR §2695.3(a) [CIC §790.03(h)(3)]	7
CCR §2695.7(d) [CIC §790.03(h)(3)]	7
CCR §2695.8(b)(1) [CIC §790.03(h)(5)]	7
CCR §2695.7(b) [CIC §790.03(h)(4)]	6
CCR §2695.85(a) [CIC §790.03(h)(3)]	5
CIC §1871.3(a) [CIC §790.03(h)(3)]	5
CCR §2695.8(f) [CIC §790.03(h)(3)]	4
CCR §2695.4(a) [CIC §790.03(h)(1)]	3
CCR §2695.7(b) [CIC §790.03(h)(3)]	3
CCR §2695.7(h) [CIC §790.03(h)(5)]	3
CCR §2695.8(e)(2) [CIC §790.03(h)(3)]	3
CCR §2695.7(p) [CIC §790.03(h)(3)]	2
CCR §2695.8(c) [CIC §790.03(h)(3)]	2
CIC §790.03(h)(1)	2
CIC §790.03(h)(3)	2
CIC §11580.011(e) [CIC §790.03(h)(3)]	2
CCR §2695.5(e)(1) [CIC §790.03(h)(2)]	1
CCR §2695.5(e)(3) [CIC §790.03(h)(3)]	1
CCR §2695.7(b)(1) [CIC §790.03(h)(3)]	1
CCR §2695.7(b)(3) [CIC §790.03(h)(3)]	1
CCR §2695.7(g) [CIC §790.03(h)(5)]	1
CIC §790.03(h)(5)	1
CIC §880 [CIC §790.03(h)(3)]	1
CIC §1871.3(d)(3) [CIC §790.03(h)(3)]	1
<b>SUBTOTAL</b>	<b>122</b>

<b>COMMERCIAL PROPERTY</b> 2012 Written Premium: \$90,043,599.00	<b>NUMBER OF ALLEGED VIOLATIONS</b>
<b>AMOUNT OF RECOVERIES</b> <b>\$200.60</b>	
CCR §2695.9(f) [CIC §790.03(h)(5)]	2
CIC §1879.2(a) [CIC §790.03(h)(3)]	1
CCR §2695.9(f) [CIC §790.03(h)(3)]	1
<b>SUBTOTAL</b>	<b>4</b>

<b>ACCIDENT AND DISABILITY</b> 2012 Written Premium: \$9,303,777.00	<b>NUMBER OF ALLEGED VIOLATIONS</b>
<b>AMOUNT OF RECOVERIES</b> <b>\$2,565.63</b>	
CIC §790.03(h)(5)	107
CIC §1879.2(a) [CIC §790.03(h)(3)]	8
CCR §2695.11(b) [CIC §790.03(h)(3)]	9
CIC §880 [CIC §790.03(h)(3)]	6
CIC §790.03(h)(3)	1
CCR §2695.4(a) [CIC §790.03(h)(1)]	1
CIC §790.03(h)(1)	1
CCR §2695.5(e)(1) [CIC §790.03(h)(2)]	1
CCR §2695.5(e)(3) [CIC §790.03(h)(3)]	1
CCR §2695.7(b)(3) [CIC §790.03(h)(3)]	1
CCR §2695.5(e)(2) [CIC §790.03(h)(3)]	1
<b>SUBTOTAL</b>	<b>137</b>

<b>WORKERS' COMPENSATION</b> 2012 Written Premium: \$471,362,774.00	<b>NUMBER OF ALLEGED VIOLATIONS</b>
<b>AMOUNT OF RECOVERIES</b> <b>\$4,536.35</b>	
CIC §790.03(h)(5)	63
CIC §790.03(h)(2)	8
<b>SUBTOTAL</b>	<b>71</b>
<b>TOTAL</b>	<b>334</b>

## SUMMARY OF EXAMINATION RESULTS

The following is a brief summary of the criticisms that were developed during the course of this examination related to the violations alleged in this report.

In response to each criticism, the Company is required to identify remedial or corrective action that has been or will be taken to correct the deficiency. The Company is obligated to ensure that compliance is achieved.

Any noncompliant practices identified in this report may extend to other jurisdictions. The Company was asked if it intends to take appropriate corrective action in all jurisdictions where applicable. The Companies' state that their proposed corrective action would only apply to those locations and staff that handle California claims. Given the varying requirements in other jurisdictions, the Companies have not specifically noted whether any of the practices observed by the California examiners in this exam are inconsistent with the requirements of any other jurisdiction.

Money recovered within the scope of this report was \$11,659.77 as described in sections number 9, 16, 21, 24, 32, 35 and 46 below. Following the findings of the examination, a closed claims survey as described in section 9, 16, and 21 below was conducted by the Companies resulting in additional payments of \$255,479.94. As a result of the examination, the total amount of money returned to claimants within the scope of this report was \$267,139.71. Pursuant to the findings of the examination as described in section 46 below, the Companies are conducting a closed claims survey. The results of the survey and additional payments, if any, shall be completed by December 31, 2015 and reported to the Department.

### COMMERCIAL AUTO

1. **In 26 instances, the Company (ZAIC) failed to provide written notice of the need for additional time or information every 30 calendar days.** In 11 instances, the Company did not respond to a subrogation demand. In 10 instances the Company did not respond to a settlement demand and in five instances status letters were not

sent. 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 state that they do not believe they violated CIC §790.03(h)(3). However, the Company acknowledges the findings and in each instance, the adjusters involved were counseled. As a result of the examination, a Liability Claims Communication Bulletin was sent on March 28, 2014 reminding staff of compliance requirements. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Certification was completed on or before September 1, 2014 and is maintained in the Company's files. In addition, the Company has created a claim checklist for use by the adjusters which includes references from the California Fair Claims Settlement Regulations.

2. **In 10 instances, the Company (ZAIC) failed to respond to communications within 15 calendar days.** In five instances, the Company did not respond to subrogation liens. In three instances, the Company did not respond to attorney requests for status. In one instance the Company did not respond to an Uninsured Motorist demand and in another instance, the Company did not respond to an e-mail from the claimant. 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 state that they do not believe they violated CIC §790.03(h)(2). However, the Company acknowledges the findings and in each instance, the adjusters involved were counseled. As a result of the examination, a Liability Claims Communication Bulletin was sent on March 28, 2014 reminding staff of compliance requirements. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Certification was completed on or before September 1, 2014 and is maintained in the Company's files. In addition, the Company has created a claim checklist for use by the adjusters which includes references from the California Fair Claims Settlement Regulations.

3. **In nine instances, the Company (ZAIC) failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days.** In five instances involving third party claims, the Company did not respond to settlement demands. In three instances involving first party claims, the Company provided late responses to subrogation demands. In one instance (third party), the claim was not acknowledged timely. 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 state that they do not believe they violated CIC §790.03(h)(3) or CIC §790.03(h)(4). However, the Company acknowledges the findings and in each instance, the adjusters involved were counseled. As a result of the examination, a Liability Claims Communication Bulletin was sent on March 28, 2014 reminding staff of compliance requirements. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Certification was completed on or before September 1, 2014 and is maintained in the Company's files. In addition, the Company has created a claim checklist for use by the adjusters which includes references from the California Fair Claims Settlement Regulations.

4. **In seven instances, the Companies failed to conduct and diligently pursue a thorough, fair and objective investigation.** In seven instances, the Companies failed to conduct and diligently pursue a thorough, fair and objective investigation. In three instances, the Companies did not pursue a timely and thorough investigation necessary to effect the claim. In another instance, a medical bill was not requested timely upon notice of claim. In one instance, a medical bill was not thoroughly reviewed. In another instance, restitution was not pursued on behalf of the insured through the court. In one instance, the Company did not investigate information developed after receipt of the police report. The Department alleges these acts are in violation of CCR §2695.7(d) and are unfair practices under CIC §790.03(h)(3).

**Summary of the Companies' Response:** The Companies state that they do not believe they violated CIC §790.03(h)(3). However, the Companies acknowledge the findings and in each instance, the adjusters involved were counseled. In the instance involving restitution from the court, the Company re-opened the investigation and upon receipt of the police report, determined on April 3, 2014 that the claim had no subrogation potential. Findings noted in the exam were highlighted in the training rolled out in May 2014. Certification was completed on or before September 1, 2014 and is maintained in the Companies' files. In addition, the Companies created a claim checklist for use by adjusters which includes references from the California Fair Claims Settlement Regulations.

5. **In seven instances, the Companies 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.** In four instances, documentation of fee or salvage determination was not in the claim file. In two instances, documentation of the adjuster's phone call and/or e-mails was not in the claim files. In one instance, documentation of a written offer was not in the file. 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 Companies' Response:** The Companies state that they do not believe they violated CIC §790.03(h)(3). However, the Companies acknowledge the findings and in each instance, the adjusters involved were counseled. As a result of the examination, a Liability Claims Communication Bulletin was sent on March 28, 2014 reminding staff of compliance requirements. Findings noted in the exam were highlighted in training conducted in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Companies' files. In addition, the Companies created a claim checklist for use by the adjusters which includes references from the California Fair Claims Settlement Regulations.

6. **In five instances, the Companies 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.** In each instance the document was not sent. 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 Companies' Response:** The Companies state that they do not

believe they violated CIC §790.03(h)(3). However, the Companies acknowledge the findings and in each instance, the adjusters involved were counseled. As a result of the examination, a Liability Claims Communication Bulletin was sent on March 28, 2014 reminding staff of compliance requirements. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Companies' files. In addition, the Companies created a claim checklist for use by adjusters which includes references from the California Fair Claims Settlement Regulations.

**7. In five instances, the Companies 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.**

These instances involved total loss claims in which determination of the actual cash value (ACV) was not explained in writing. 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 Companies' Response:** The Companies state that they do not believe they violated CIC §790.03(h)(3). However, the Companies acknowledge the findings and in each instance, the adjusters involved were counseled. As a result of the examination, a Liability Claims Communication Bulletin was sent on March 28, 2014 reminding staff of compliance requirements. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Companies' files. In addition, the Companies created a claim checklist for use by the adjuster which includes references from the California Fair Claims Settlement Regulations.

**8. In five instances, the Companies failed to secure a theft affidavit from the insured.** These instances each involved theft claims. The Department alleges these acts are in violation of CIC §1871.3(a) and are unfair practices under CIC §790.03(h)(3).

**Summary of the Companies' Response:** The Companies state that they do not believe they violated CIC §790.03(h)(3). However, the Companies' acknowledge the findings and the adjusters involved were counseled. As a result of the examination, the Companies have revised their ZNA Auto Property Damage Claim Handling Guidelines to include that:

- a) Theft affidavit must be provided to the vehicle owner on all auto thefts, regardless whether the vehicle has been recovered or not.
- b) The Company must obtain a properly executed theft affidavit for the theft of a vehicle from the vehicle owner prior to settling the claim. Note the Theft Affidavit must also be obtained on claims where the vehicle is recovered; it is required prior to settling the claim.

The Companies provided the Guidelines to the Department on April 4, 2014. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Companies' files.

9. **In four instances, the Companies failed to include, in the settlement, the license fee and other annual fees computed based upon the remaining term of the registration.** Each instance involved total loss claims in which pro-rated vehicle registration fees were unpaid. 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 Companies' Response:** The Companies' acknowledge the findings but submit that good faith attempts were made to effectuate prompt, fair, and equitable settlements of claims in which liability had become reasonably clear. The Companies stated that the adjusters involved were counseled. As a result of the examination, the Companies paid a total of \$2,194.48 in unpaid fees. The Companies conducted a self-review of total loss settlements over a review period of January 1, 2011 to December 31, 2013 for settlement of unpaid pro-rated vehicle registration fees. The review, including approximately 1,200 claim files with recoveries totaling \$51,316.78, was completed June 30, 2014. In addition, the Companies stated that findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Companies' files. The Companies also created a claim checklist for use by the adjuster which includes references from the California Fair Claims Settlement Regulations.

10. **In four instances, the Companies failed to supply the claimant with a copy of the estimate upon which the settlement was based.** In each instance a copy of the estimate upon which the settlement was based was not provided to the insured. 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 Companies' Response:** The Companies state that they do not believe they violated CIC §790.03(h)(3). However, the Companies acknowledge the findings and in each instance, and the adjusters involved were counseled. As a result of the examination, a Liability Claims Communication Bulletin was sent on March 28, 2014 reminding staff of compliance requirements. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Companies' files. In addition, the Companies created a claim checklist for use by adjusters which includes references from the California Fair Claims Settlement Regulations.

11. **In three instances, the Companies 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.** In each instance involving total loss claims, itemization of all components of the settlement was not provided to the claimant. 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 Companies' Response:** The Companies state that they do not believe they violated CIC §790.03(h)(3). However, the Companies acknowledge the findings and in each instance, and the adjusters involved were counseled. As a result of the examination, a Liability Claims Communication Bulletin was sent on March 28, 2014

reminding staff of compliance requirements. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Companies' files. In addition, the Companies created a claim checklist for use by adjusters which includes references from the California Fair Claims Settlement Regulations.

12. **In three instances, the Company (ZAIC) failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy.** One instance involved not disclosing rental coverage; one instance involved not disclosing tow coverage and one instance involved not disclosing all benefits applicable to the claim. In each instance, there was no documentation in the claim file to show that the requirement had been met. Additionally, the file notes for the instance involving the tow bill did not indicate that any information was provided to the insured regarding possible reimbursement. 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 acknowledges the findings but does not agree that benefits were not disclosed to the insured as they had a procedure in place for adjusters to verbally disclose all policy benefits to the insured during the initial phone contact. However, as a result of the examination, the Company voluntarily created a Liability Claims Communication Bulletin that was sent to its staff on March 28, 2014 reminding them to document the benefit disclosure in the claim file. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Company files. In addition, the Company created a claim checklist for use by adjusters which includes references from the California Fair Claims Settlement Regulations.

13. **In three instances, the Company (ZAIC) failed to disclose in writing to the claimant that notice of the salvage retention by the claimant must be provided to the Department of Motor Vehicles and that this notice may affect the loss vehicle's future resale and/or insured value.** In each instance, the insured was not advised of the requirement. The Department alleges these acts are in violation of CCR §2695.8(b)(1)(A) and are unfair practices under CIC §790.03(h)(3).

**Summary of the Company's Response:** The Company states that they do not believe they violated CIC §790.03(h)(3). However, the Company acknowledges the findings and submits that each instance was the result of adjuster oversight; the adjusters involved were counseled. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Company files. In addition, the Companies created a claim checklist for use by adjusters which includes references from the California Fair Claims Settlement Regulations.

14. **In three instances, the Companies' failed, upon acceptance of the claim, to tender payment within 30 calendar days.** Two instances involved med pay bills and one instance involved a rental bill, which were not paid timely. The Department alleges these acts are in violation of CCR §2695.7(h) and are unfair practices under CIC §790.03(h)(5).

**Summary of the Companies' Response:** The Companies state that they do not believe they violated CIC §790.03(h)(5). However, the Companies acknowledge the findings and in each instance, the adjusters involved were counseled. As a result of the examination, a Liability Claims Communication Bulletin was sent on March 28, 2014 reminding staff of compliance requirements. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Company files. In addition, the Companies created a claim checklist for use by adjusters which includes references from the California Fair Claims Settlement Regulations.

15. **In three instances, the Companies 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.** In each instance, the insured was directed to a Direct Repair Program (DRP) shop. The Department alleges these acts are in violation of CCR §2695.8(e)(2) and are unfair practices under CIC §790.03(h)(3).

**Summary of the Companies' Response:** The Companies state that they do not believe they violated CIC §790.03(h)(3). However, the Companies' acknowledge the findings, and the adjusters involved were counseled. As a result of the examination, the Companies re-communicated the requirement and the established DRP process in a Liability Claims Communication Bulletin on March 28, 2014. The bulletin emphasizes the process of providing the disclosure within five calendar days following the Companies' oral recommendation as included in the CA DRP Referral script. A copy of the bulletin was provided to the Department on April 4, 2014 for review. In addition, findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Companies' files. Lastly, the Companies created a claim checklist for use by the adjuster which includes references from the California Fair Claims Settlement Regulations.

16. **In three instances, the Company (ZAIC) failed to include in the settlement all applicable taxes.** In each instance involving total loss claims, taxes were unpaid. 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 state that they do not believe they violated CIC §790.03(h)(3). However, the Company acknowledges the findings but submits that good faith attempts were made to effectuate prompt, fair, and equitable settlements of claims in which liability had become reasonably clear. The Company states that the adjusters involved were counseled. As a result of the examination, the Companies paid a total of \$1,142.71 in unpaid taxes. The Companies conducted a self-review of total loss settlements over a review period of January 1, 2011 to December 31, 2013 for settlement of unpaid taxes. The review, including approximately 1,200 claim files with recoveries totaling \$203,047.16 was completed June 30, 2014. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Companies' files. In addition, the Companies created a claim checklist for use by the adjuster which includes references from the California Fair Claims Settlement Regulations.

17. **In two instances, the Company (ZAIC) failed to inform the claimant of his or her right to seek a refund of the unused license fees from the Department of Motor Vehicles.** In each instance, the claimant was not advised of the requirement. The Department alleges these acts are in violation of CCR §2695.8(b)(1)(A) and are unfair practices under CIC §790.03(h)(3).

**Summary of the Company's Response:** The Company state that they do not believe they violated CIC §790.03(h)(3). However, the Company acknowledges the findings and submits that each instance was the result of adjuster oversight, and the adjusters involved were counseled. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Company's files. In addition, the Company created a claim checklist for use by the adjuster which includes references from the California Fair Claims Settlement Regulations.

18. **In two instances, the Company (ZAIC) failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies.** In two instances pertaining to uninsured motorist/underinsured motorist claims (UMBI/UIM), the Company was in receipt of settlement demand packages. In the first instance, the Company adjuster did not promptly review and address the UMBI demand. In the second instance involving a UIM claim, the Company prematurely archived a claim resulting in a delay in response to the demand. The Department alleges these acts are in violation of CIC §790.03(h)(3).

**Summary of the Company's Response:** The Company states it is their standard practice to review a claim settlement demand package within 30 days of receipt. The Company further states it is their practice to re-activate a claim file when UIM notice is received for prompt review and claims adjudication. The Company does not believe they violated CIC §790.03(h)(3). However, the Company acknowledges the findings and submits that each instance was the result of adjuster oversight, and the adjusters involved were counseled. Additionally, findings noted in the exam were highlighted in the training that was rolled out in May 2014.

19. **In two instances, the Company (ZAIC) misrepresented to claimants pertinent facts or insurance policy provisions relating to coverages at issue.** In one instance the adjuster incorrectly advised the insured that a repairable vehicle was a total loss, and in another instance a correspondence to a claimant indicated the wrong name. The Department alleges these acts are in violation of CIC §790.03(h)(1).

**Summary of the Company's Response:** The Company states that they do not believe they violated CIC §790.03(h)(1). However, the Company acknowledges both findings – one was the result of a typographical error and the other due to adjuster oversight. Following the examination, the claims staff involved was counseled. Findings noted in the exam were highlighted in the training that was rolled out in May 2014.

20. **In two instances, the Company (ZAIC) failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation.** In each instance the letter was not sent to the insured. 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 states that they do not believe they violated CIC §790.03(h)(3). However, the Company acknowledges the findings as the result of adjuster oversight and following the examination, the claims staff involved was counseled. In one instance in which the required letter was not sent, subrogation was opened but was later closed upon receipt of additional information with no potential for recovery. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Company's files. In addition, the Company created a claim checklist for use by the adjuster which includes references from the California Fair Claims Settlement Regulations.

21. **In two instances, the Company (ZAIC) failed to include, in the settlement, fees incident to the transfer of the vehicle to salvage status.** In one instance, the salvage certificate fee was left unpaid and in another instance, the fee was underpaid. The Department alleges these acts are in violation of CCR §2695.8(b)(1)(A) and are unfair practices under CIC §790.03(h)(5).

**Summary of the Company's Response:** The Company states that they do not believe they violated CIC §790.03(h)(5). However, the Company acknowledges the findings as the result of adjuster oversight and following the examination, the claims staff involved was counseled. The Company acknowledged it inadvertently overlooked the rate change from \$18.00 to \$19.00. To correct the errors noted in the sample files, the Company paid a total of \$20.00 in unpaid fees on the two claims. In addition, the Companies conducted a self-review of total loss settlements over a review period of January 1, 2011 to December 31, 2013 for settlement of unpaid fees. The review, including 1,194 claims with recoveries totaling \$1,116.00 was completed June 30, 2014. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Company's files. In addition, the Company created a claim checklist for use by the adjuster which includes references from the California Fair Claims Settlement Regulations.

22. **In two instances, the Company (ZAIC) 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.** In each instance, the claimant was not asked about the child passenger restraint system (CPRS). 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 states that they do not believe they violated CIC §790.03(h)(3). However, the Company acknowledges the findings and in each instance, the adjusters involved were counseled. As a result of the examination, a Liability Claims Communication Bulletin was sent on March 28, 2014 reminding staff of the requirement to ask about the use of a CPRS, as well as to document results of the inquiry in the claim file. A copy of the bulletin was provided to the Department on April 4, 2014. Findings noted in the exam were highlighted in the training

that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Company's files.

23. **In two instances, the Companies failed to notify the insured that the file will be reopened if a comparable automobile cannot be purchased for the amount offered or paid.** In each instance, the insured was not notified of the requirement. 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 Companies' Response:** It is the Companies' procedure to include the notification to the insured. The Companies state that they do not believe they violated CIC §790.03(h)(3). However, the Companies acknowledge the findings and, as a result of the examination, the Companies voluntarily created a Liability Claims Communication Bulletin on March 28, 2014 that re-emphasizes the requirement to reopen its claims file if the insured cannot find a replacement vehicle within 35 days. A copy of the bulletin was provided to the Department on April 4, 2014. In addition, findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Companies' files. Lastly, the Companies created a claim checklist for use by the adjuster which includes references from the California Fair Claims Settlement Regulations.

24. **In one instance, the Company (ZAIC) attempted to settle a claim by making a settlement offer that was unreasonably low.** In this instance, the Company applied a deductible to the claim in error. The Department alleges this act is in violation of CCR §2695.7(g) and is an unfair practice under CIC §790.03(h)(5).

**Summary of the Company's Response:** The Company states that they do not believe they violated CIC §790.03(h)(5). However, the Company acknowledges the finding as the result of adjuster oversight and the claims staff involved was counseled. As a result of the examination, a total of \$1,000.00 was paid to the insured. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Company's files. In addition, the Company created a claim checklist for use by the adjuster which includes references from the California Fair Claims Settlement Regulations.

25. **In one instance, the Company (ZAIC) failed to deny, dispute or reject a third party claim in writing.** In this instance, denial of a subrogation claim was not sent in writing. The Department alleges this act is in violation of CCR §2695.7(b)(1) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response:** It is the Company's procedure to deny, dispute or reject a third party claim in writing. The Company states that they do not believe they violated CIC §790.03(h)(3). However, the Company acknowledges the finding and as a result of the examination, the claims staff involved at the third party administrator (TPA), Sedgwick, was counseled and a written denial letter was sent. The finding noted in the exam was highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Company's files. In addition, the Company created a claim checklist for use by adjusters which includes references from the California Fair Claims Settlement Regulations.

26. **In one instance, the Company (ZAIC) failed to effectuate prompt, fair and equitable settlements of claims in which liability had become reasonably clear.** This instance involves an Uninsured Motorist Bodily Injury claim which was not settled promptly with any issue of liability. The Department alleges this act is in violation of CIC §790.03(h)(5).

**Summary of the Company's Response:** It is the Company's procedure to respond timely to a demand for settlement. In this case, a UMBI demand package was received on 3/18/11, but was not settled until November 2012, over a year and a half later. The Company states that they do not believe they violated CIC §790.03(h)(5). However, the Company acknowledges the finding as the result of adjuster oversight. There was no remedial action taken as the adjuster is no longer with the Company. The finding noted in the exam was highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Company's files.

27. **In one instance, the Company (ZAIC) failed to conduct its business in its own name.** This instance occurred in which the correct underwriting Company was not referenced on a correspondence to the claimant. The Department alleges this act is in violation of CIC §880 and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response:** It is the Company's procedure to reference the correct underwriting Company on correspondences. The Company states that they do not believe they violated CIC §790.03(h)(3). However, they acknowledge the finding as the result of adjuster oversight and the claim staff involved was counseled. As a result of the examination, the Company re-communicated the requirement in a Liability Claims Communication Bulletin on March 28, 2014. The bulletin emphasizes the requirement to use the correct underwriting company name on all claim letters. A copy of the bulletin was provided to the Department on April 4, 2014. The finding noted in the exam was highlighted in the training rolled out in May 2014.

28. **In one instance, the Company (ZAIC) failed to acknowledge notice of claim within 15 calendar days.** In one instance, the claim was not acknowledged timely. The Department alleges this act is in violation of CCR §2695.5(e)(1) and is an unfair practice under CIC §790.03(h)(2).

**Summary of the Company's Response:** The Company state that they do not believe they violated CIC §790.03(h)(2). However, the Company acknowledges the finding as the result of adjuster oversight and the claims staff involved at the third party administrator (TPA), Sedgwick, was counseled. As a result of the examination, the Company re-communicated the requirement in a Liability Claims Communication Bulletin on March 28, 2014. A copy of the bulletin was provided to the Department on April 4, 2014. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Company's files. In addition, the Company created a claim checklist for use by the adjuster which includes references from the California Fair Claims Settlement Regulations.

29. **In one instance, the Company (ZAIC) failed to begin investigation of the claim within 15 calendar days.** In one instance, the investigation of the claim did not begin timely. The Department alleges this act is in violation of CCR §2695.5(e)(3) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response:** The Company states it does not believe it violated CIC §790.03(h)(3). However, the Company acknowledges the finding as the result of adjuster oversight and the claims staff involved at the third party administrator (TPA), Sedgwick, was counseled. The Company states it is their procedure to begin an investigation of a claim within 15 calendar days. As a result of the examination, the Company re-communicated the requirement in a Liability Claims Communication Bulletin on March 28, 2014. A copy of the bulletin was provided to the Department on April 4, 2014. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Company's files. In addition, the Company created a claim checklist for use by the adjuster which includes references from the California Fair Claims Settlement Regulations.

30. **In one instance, the Company (ZAIC) 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.** In one instance, the partial denial letter did not include the required referral. 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 states that they do not believe they violated CIC §790.03(h)(3). However, the Company acknowledges the finding as the result of adjuster oversight. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Company files. In addition, the Company created a claim checklist for use by adjusters which includes references from the California Fair Claims Settlement Regulations.

31. **In one instance, the Company (AGLIC) failed to retain a copy of the police report of a vehicle theft for at least three years.** The Department alleges this act is in violation of CIC §1871.3(d)(3) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response:** The Company states that it does not believe it violated CIC §790.03(h)(3). However, the Company acknowledges the finding as the result of adjuster oversight and the claims staff involved was counseled. The Company states it is their procedure to retain a copy of the police report of a vehicle theft for at least three years. The finding noted in the exam was highlighted in training conducted in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in company files.

## COMMERCIAL PROPERTY

32. **In two instances, the Company (ZAIC) improperly applied betterment or depreciation to property not normally subject to repair and replacement during the useful life of the property.** In one instance, depreciation was incorrectly taken on drywall, and in another instance, depreciation was incorrectly taken on hardwood floor. The Department alleges these acts are in violation of CCR §2695.9(f) and are unfair practices under CIC §790.03(h)(5).

**Summary of the Company's Response:** The Company acknowledges the findings but submits that good faith attempts were made to effectuate prompt, fair, and equitable settlements of claims in which liability had become reasonably clear and that these instances were the result of adjuster oversight. As a result of the examination, the Company paid a total of \$200.60 to claimants. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Company's files.

33. **In one instance, the Company (ZAIC) failed to fully explain the basis for any adjustment to the claimant in writing.** In one instance, depreciation was not explained. Department alleges this act is in violation of CCR §2695.9(f) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response:** It is the Company's procedure to fully explain the basis for any adjustment to the claimant in writing. The Company states that they do not believe they violated CIC §790.03(h)(3). However, they acknowledge the finding as the result of adjuster oversight. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Company's files.

34. **In one instance, the Company (ZAIC) failed to include the California fraud warning on insurance forms.** In this instance, the contents inventory form included the incorrect fraud warning. The Department alleges this act is in violation of CIC §1879.2(a) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response:** It is the Company's procedure to include the California fraud warning on insurance forms. The Company states that they do not believe they violated CIC §790.03(h)(3). However, they acknowledge the finding and as a result of the examination, the contents inventory form was updated with the proper fraud language. A copy of the revised form was provided to the Department on April 21, 2014. Findings noted in the exam were highlighted in the training that was rolled out in May 2014. Training certification was completed on or before September 1, 2014 and is maintained in the Company's files.

## ACCIDENT & DISABILITY

35. **In 107 instances, the Company (ZAIC) failed to effectuate prompt, fair and equitable settlements of claims in which liability had become reasonably clear.** In 94 instances, medical bills were not paid timely. In seven instances, medical bills were left unpaid. In two instances, medical bills were underpaid. In two instances, medical bills were not responded to timely. In one instance, interest was not paid and in one instance the deductible was applied incorrectly. The Department alleges these acts are in violation of CIC §790.03(h)(5).

**Summary of the Company's Response:** The Company acknowledges the findings but submits that good faith attempts were made to effectuate prompt, fair, and equitable settlements of claims in which liability had become reasonably clear and that it updated the A&H Best Practices as a result of the examination. The updated procedure for timely payment of medical bills was implemented on March 31, 2014 which requires that bills must be reviewed and sent for processing within 10 calendar days of receipt for payment within 30 calendar days from date of receipt (provided receipt of an acceptable proof of loss). As a result of the examination, claim payments of \$2,375.23 were made on four claims and a total of \$190.40 in interest owed was paid to a beneficiary on one AD&D death claim.

36. **In eight instances, the Company (ZAIC) failed to include the California fraud warning on insurance forms.** In each instance, the Occupation Accident Proof of Loss form did not include the correct fraud language. The Department alleges these acts are in violation of CIC §1879.2(a) and are unfair practices under CIC §790.03(h)(3).

**Summary of the Company's Response:** The Company acknowledges the findings and agrees that the incorrect fraud language was used on proof of loss forms. The Company completed updates to include the proper California fraud language on its Accident and Health forms on June 30, 2014. A copy of the updated form was provided to the Department on July 28, 2014.

37. **In nine instances, the Company (ZAIC) failed to provide to the claimant and assignee an explanation of benefits including the name of the provider or services covered, dates of service, and a clear explanation of the computation of benefits.** In each instance, an Explanation of Review was not sent to the claimant. The Department alleges these acts are in violation of CCR §2695.11(b) and are unfair practices under CIC §790.03(h)(3).

**Summary of the Company's Response:** The Company acknowledges the findings and agrees that an Explanation of Review was not sent to the claimant in these instances. Current procedures are that an Explanation of Review is sent to the provider, but not to the claimant. The Company completed its process enhancement on May 15, 2014, to ensure that medical bill Explanation of Reviews are sent to Accident and Health claimants.

38. **In six instances, the Company failed to conduct its business in its own name.** In six instances, correspondences did not include the correct underwriting

company. The Department alleges these acts are in violation of CIC §880 and are unfair practices under CIC §790.03(h)(3).

**Summary of the Company's Response:** The Company acknowledges the violations and states that use of the incorrect underwriting company was an oversight. As a result of the examination, the Company investigated the error and determined that a system correction was required to ensure the correct underwriting company appears on all explanation of benefits. The system correction was completed on August 1, 2014.

39. **In one instance, the Company (ZAIC) failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies.** In this instance there was a nearly six month delay in the investigation and processing of an Accidental Death and Dismemberment claim. The Department alleges this act is in violation of CIC §790.03(h)(3).

**Summary of the Company's Response:** It is the Company's procedure to promptly investigate and process claims. The Company states that they do not believe they violated CIC §790.03(h)(3). However, they acknowledge this instance of adjuster oversight and the involved claims staff was counseled.

40. **In one instance, the Company (ZAIC) failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy.** In this instance, the claimant was not advised of the waiting period and amount of benefit in a Group Occupation Wage claim. 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 states that they do not believe they violated CIC §790.03(h)(1). However, the Company acknowledges this instance of adjuster oversight and the involved adjuster was counseled.

41. **In one instance, the Company (ZAIC) misrepresented to claimants pertinent facts or insurance policy provisions relating to coverages at issue.** This instance involved a Group Occupation Medical claim in which the adjuster incorrectly advised the claimant regarding a limitation of service. The Department alleges this act is in violation of CIC §790.03(h)(1).

**Summary of the Company's Response:** The Company states that they do not believe they violated CIC §790.03(h)(1). However, the Company acknowledges there was an oversight due to an incorrect calculation in this instance, and the adjuster involved has been counseled.

42. **In one instance, the Company (ZAIC) failed to acknowledge notice of claim within 15 calendar days.** In this instance involving a Group Accident claim, notice of claim was not acknowledged timely. The Department alleges this act is in violation of CCR §2695.5(e)(1) and is an unfair practice under CIC §790.03(h)(2).

**Summary of the Company's Response:** The Company states that they do not believe they violated CIC §790.03(h)(2). However, the Company acknowledges this instance of adjuster oversight and the involved adjuster was counseled.

43. **In one instance, the Company (ZAIC) failed to begin investigation of the claim within 15 calendar days.** In this instance involving a Group Accident claim, the investigation of the claim did not begin timely. The Department alleges this act is in violation of CCR §2695.5(e)(3) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response:** It is the Company's procedure to begin investigation of the claim within 15 calendar days. The Company states that they do not believe they violated CIC §790.03(h)(3). However, they acknowledge this instance of adjuster oversight and the involved claims staff was counseled.

44. **In one instance, the Company (ZAIC) 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.** In this instance, the corrected Explanation of Review (EOR) did not include the required language. 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:** It is the Company's procedure to send a denial letter to the claimant which includes the appropriate denial referral language. The Company state that they do not believe they violated CIC §790.03(h)(3). However, they acknowledge the finding and as an enhancement to the current process, the Company voluntarily agreed to also add the denial referral language to the EOR. A copy was submitted to the Department on June 10, 2014.

45. **In one instance, the Company (ZAIC) failed to provide necessary forms, instructions, and reasonable assistance within 15 calendar days.** In this instance, the Company did not send claim forms to the insured timely. The Department alleges these acts are in violation of CCR §2695.5(e)(2) and are unfair practices under CIC §790.03(h)(3).

**Summary of the Company's Response:** It is the Company's procedure to send claim forms within 15 calendar days of notice of claim. The Company states that they do not believe they violated CIC §790.03(h)(3). However, they acknowledge this instance of adjuster oversight and the involved claims staff was counseled.

## **WORKERS' COMPENSATION**

46. **In 63 instances, the Companies failed to effectuate prompt, fair and equitable settlements of claims in which liability had become reasonably clear.** In 31 instances, medical bills were not paid timely. In 31 instances, late penalty and interest were not paid. In one instance, a Temporary Disability payment was late. The Department alleges these acts are in violation of CIC §790.03(h)(5).

**Summary of the Companies' Response:** The Companies acknowledge the findings and as a result of the examination, a total of \$4,536.35 was paid to providers. These instances were the result of adjuster oversight and the claims staff involved, including the Third Party Administrator (Sedgwick) was counseled. As a result of the

examination, the Companies sent a Workers' Compensation Communication Bulletin on April 25, 2014 to all internal workers' compensation executive management, team managers and claim professionals that handle California claims to reinforce best practices which ensure medical bills are paid timely in accordance with the Workers' Compensation medical bill requirements. In addition, its third party administrators were reminded of the requirements.

The Companies have voluntarily implemented an action plan effective April 1, 2014 to review and revise procedures, implement regular monitoring efforts, and complete an internal validation of the updated process. In addition, the Companies will conduct a voluntary self-review of applicable workers' compensation bills paid between March 1, 2011 and August 31, 2014. The Companies will begin the self-review during the fourth quarter 2014 and expect to complete the self-review by December 31, 2015. The survey results will be reported to the Department.

47. **In eight instances, the Companies failed to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.** In three instances, response to a request to authorize treatment exceeded five working days. In two instances, written approval to a physician's request for authorization was not provided within 24 hours of verbal certification. In one instance, communication of a decision to approve a physician's request for authorization exceeded 24 hours. In another instance, a Temporary Total Disability (TTD) payment notice was not sent timely. In one instance, a Temporary Disability benefit notice was not sent following notice of change. The Department alleges these acts are in violation of CIC §790.03(h)(2).

**Summary of the Companies' Response:** The Companies acknowledge these instances of adjuster oversight and the claims staff involved was counseled.