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James H. Clay
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July 13, 2015

Towanda David
Bureau Chief
Field Claims Bureau
State of California Department of Insurance
300 South Spring Street 10th Floor
Los Angeles, CA 90013

RE: Field Claims Examination Report
ACE American Insurance Company, NAIC # 22667
ACE Fire Underwriters Insurance Company, NAIC # 20702
ACE Property & Casualty Insurance Company, NAIC # 20669
Bankers Standard Insurance Company, NAIC # 18279
Indemnity Insurance Company of North America, NAIC # 43575
Pacific Employers Insurance Company, NAIC # 22748
Westchester fire Insurance Company, NAIC # 10030

Dear Ms. David:

Thank you for your letter of June 19, 2015 that included the Field Claims Examination Report. A response to the report on behalf of the companies listed above is respectfully submitted for publication.



PRIVATE PASSENGER AUTOMOBILE

1. In 23 instances, the Company (Bankers Standard Insurance Company) failed to properly advise the insured that the driver of the insured vehicle was principally at-fault for an accident. The Department alleges these acts are in violation of CCR §2632.13(e)(2) and are unfair practices under CIC §790.03(h)(3).

Company Response

The Company respectfully submits that the failure to advise the insured in writing that the driver of the insured vehicle was principally at-fault for the accident was not committed knowingly and did not amount to a failure to adopt and/or implement reasonable standards for the prompt investigation and processing of claims. In all instances the Company properly investigated and paid the claims in a timely and prompt manner. Further, of the 23 instances where such violation was determined to exist, in 16 instances the Company claim adjuster verbally advised the insured that they were principally at fault for the accident and documented such in the claim file. Subsequent to this claim but prior to the examination, the Company created a claims handling compliance map setting forth the rules and regulations for each State. The Company has also revised its Best Practices Manual to include a provision that an at-fault letter must be sent to the insured in instances where the driver of the insured vehicle is determined to be principally at-fault for the accident and the Company provided training to all auto adjusters handling matters in California regarding this requirement on March 29, 2014. Finally, the Company



respectfully requests that these violations be considered a single act as they were inadvertent, were not intentional, knowing or willful and were corrected immediately.

2. In 14 instances, the Company (Bankers Standard Insurance Company) failed to ask if a child passenger restraint system was in use in an accident. The Department alleges these acts are in violation of CIC §11580.011(e) and are unfair practices under CIC §790.03(h) (3).

Company Response

The Company respectfully submits that it is the Company's practice to cover any damage to a CPRS from an accident and to issue payment promptly. Further, in 13 of the instances where such violations were determined to exist, photographs of the vehicle and contents following the loss revealed that there were no child passenger restraint systems in the vehicles at the time of any of the losses. Additionally, in one instance, damage to a CPRS was determined to exist and the Company appropriately reimbursed the claimant.

3. In seven instances, the Company (Bankers Standard Insurance 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).

Company Response



The Company first respectfully submits that there were only six instances where claimant was not provided with a copy of the estimate upon which settlement was based. As to these instances, the Company respectfully submits that the failure to provide claimant with a copy of an estimate upon which settlement was based was not committed knowingly and did not amount to a failure to adopt and/or implement reasonable standards for the prompt investigation and processing of claims. In all instances the Company properly investigated and paid the claims in a timely and prompt manner. Further, the claim file notes document that the estimate was either sent to claimant's repair shop of choice or verbally explained to the claimant. With respect to the seventh instance where the Company is cited for failing to supply claimant with a copy of the estimate (Inquiry: 21), the Company is only cited for failing to send the insured an at-fault letter. Subsequent to these claims and prior to the examination, the Company created a claims handling compliance map setting forth the rules and regulations for each State. In addition, the Company has revised its Best Practices Manual to include a provision that copies of all estimates must be provided to claimant and the Company provided training to all auto adjusters handling matters in California regarding this requirement on March 29, 2014. Finally, the Company respectfully requests that these violations be considered a single act as they were inadvertent, were not intentional, willful or knowing and were corrected immediately.

4. In six instances, the Company (Bankers Standard Insurance Company) failed to explain in writing the determination of the cost of a comparable vehicle. The Department alleges these acts are in violation of CCR §2695.8(b)(4) and are unfair practices under CIC §790.03(h)(3).

Company Response



The Company respectfully disagrees that it failed to explain in writing the determination of a cost of a comparable vehicle. In each instance where such violation was determined to exist, claimant was provided with a valuation from Audatex, which included the costs of several comparable vehicles and which meets the requirements of CCR Section 2695.8(b)(4).

5. In five instances, the Company (Bankers Standard Insurance Company) failed to include in the settlement the license fee and other annual fees computed based upon the remaining term of the registration. The Department alleges these acts are in violation of CCR §2695.8(b) (1) and are unfair practices under CIC §790.03(h)(5).

Company Response

The Company respectfully submits that the failure to include license fees and other annual fees in total loss settlements was not committed knowingly or in bad faith and did not amount to a failure to effectuate prompt, fair and equitable settlements. In all instances, the Company properly investigated and paid the claims in a timely and prompt manner. Following the examination, for all claims where the Department determined that the total loss settlement did not include license fees and/or other annual fees, the Company issued a supplemental payment to claimant. The total amount of supplemental payments was \$1,002.98. Additionally, the Company subsequently contracted with California Vehicle Registration to provide the Company with information concerning proper license fees and other annual fees. The Company also further agreed to review all total loss settlements from July 1, 2010 through June 30, 2013, and issue supplemental payments where proper fees were not included in the settlement by July 1, 2014. Additionally, subsequent to these claims and prior to the examination, the Company



created a claims handling compliance map setting forth the rules and regulations for each State and provided training to all auto adjusters handling matters in California on March 29, 2014 regarding fees and costs to be included in total loss settlements. Finally, the Company respectfully requests that these violations be considered a single act as they were inadvertent, were not intentional, willful or knowing, and were corrected immediately.

6. In four instances, the Company (Bankers Standard Insurance 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).

Company Response

The Company respectfully submits that the failure to notify the insured that the file will be reopened if a comparable automobile cannot be purchased for the amount offered or paid was not committed knowingly and did not amount to a failure to adopt and/or implement reasonable standards for the prompt investigation and processing of claims. In all instances, the Company properly investigated and paid the claims in a timely and prompt manner. Immediately following comments from the Department, the Company revised its total loss settlement letter to include the notification. Subsequent to these claims and prior to the examination, the Company also created a claims handling compliance map setting forth the rules and regulations for each State and provided training to all auto adjusters handling matters in California regarding this requirement on March 29, 2014. Finally, the Company respectfully requests that these violations be considered a single act as they were inadvertent, were not intentional, willful or knowing, and were corrected immediately.



7. In two instances, the Company (Bankers Standard Insurance Company) failed to provide written notice of any statute of limitation or other time period requirement not less than 60 days prior to the expiration date. In one instance the claimant was initially represented when the Company received notice of claim. However, prior to closure of the claim and upon notification that claimant was no longer represented, the Company failed to send the claimant a notice of the statute of limitations. In the other instance the injured party withdrew his claim and the Company provided verbal notice of the statute of limitations. The Department alleges these acts are in violation of CCR §2695.7(f) and are unfair practices under CIC §790.03(h)(3).

Company Response

The Company respectfully submits that the failure to provide claimant with written notice of the statute of limitations no less than 60 days prior to the expiration date was not committed knowingly and did not amount to a failure to adopt and/or implement reasonable standards for the prompt investigation and processing of claims. In both instances the claims were investigated properly. In the first instance where a violation was determined to exist (Inquiry: DAW-1), the claim file notes document that claimant was initially represented by an attorney, who later withdrew as counsel. The claim files notes reflect that the adjuster believed claimant was advised of the expiration of the statute of limitations by her attorney. In the second instance where the violation was determined to exist (Inquiry: Collision – 341), the file notes document that claimant verbally advised that he was withdrawing his claim and was verbally advised regarding the statute of limitations. The Company respectfully submits that the failure to provide a written letter to claimant in both instances was inadvertent and did not cause harm to a consumer. Subsequent to these claims and prior to the examination, the Company



created a claims handling compliance map setting forth the rules and regulations for each State. The Company also has revised its Best Practices Manual to include a provision that any claimant not represented by an attorney must be advised of the statute of limitations at least 60 days prior to the expiration date and provided training to all auto adjusters handling matters in California regarding this requirement on March 29, 2014. Finally, the Company respectfully requests that these violations be considered a single act as they were inadvertent, were not intentional, willful or knowing, and were corrected immediately.

8. In one instance, the Company (Bankers Standard Insurance Company) failed, upon acceptance of the claim, to tender payment within 30 calendar days. The Company failed to promptly pay the collision damage waiver upon confirmation that the at-fault party was uninsured. The Department alleges this act is in violation of CCR §2695.7(h) and is an unfair practice under CIC §790.03(h)(5).

Company Response

The Company respectfully submits that the failure to promptly pay the collision damage waiver upon confirmation that the at-fault party was uninsured was inadvertent and was not in bad faith, and did not amount to a failure to effectuate prompt, fair and equitable settlements. In the one instance where the violation was cited, the subrogation adjuster determined that the liable third-party had no insurance; however, inadvertently did not inform the handling adjuster that the liable third-party was uninsured. Once the handling adjuster was informed that the liable third-party had no insurance, the deductible was reimbursed to the insured. Subsequent to this claim and prior to the examination, the Company created a claims handling compliance map setting forth the rules and regulations for each State. The Company also provided training to all auto adjusters



handling matters in California regarding requirements on timeliness of handling claims on March 29, 2014.

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

Company Response

The Company respectfully submits that the failure to provide the insured with written notification of the intent to pursue subrogation in this one instance was not committed knowingly and did not amount to a failure to adopt and/or implement reasonable standards for the prompt investigation and processing of claims. In the file where the violation was cited, the claim file notes document that a verbal discussion regarding the intent to pursue subrogation occurred. Ultimately, the Company was successful in its pursuit of subrogation and issued reimbursement to the insured for the deductible. The Company further respectfully submits that the claim was timely and properly investigated and payment was promptly issued. Subsequent to this claim and prior to the examination, the Company created a claims handling compliance map setting forth the rules and regulations for each State. The Company also revised its Best Practices Manual to include a provision that notification must be provided to an insured when subrogation will be pursued and provided training to all auto adjusters handling matters in California regarding this requirement on March 29, 2014.



10. In one instance, the Company (Bankers Standard Insurance Company) failed to conduct its business in its own name. The at-fault letter did not state the underwriting insurance company name. The Department alleges this act is in violation of CIC §880 and is an unfair practice under CIC §790.03(h)(3).

Company Response

The Company respectfully submits that failure to conduct business in its own name was inadvertent, was not committed knowingly and did not amount to a failure to adopt and/or implement reasonable standards for the prompt investigation and processing of claims. In the one instance where the violation was cited, the claim adjuster improperly used the name ACE Private Risk Services as opposed to Bankers Standard Insurance Company. With respect to the underlying matter, the claim was timely and properly investigated and the claim was timely and appropriately paid. The Company respectfully submits that this is an isolated instance and that all form letters used by Company adjusters have been reviewed to ensure the proper underwriting company name is included in communications.

WORKERS' COMPENSATION

11. In six instances the Company (ACE American Insurance Company) failed to effectuate prompt, fair and equitable settlements of claims in which liability had become reasonably clear. In three instances the Company failed to include interest on delayed payments. In two instances the Company failed to pay medical bills



within 45 working days. In one instance the Company failed to issue timely payment for a mileage reimbursement claim. The Department alleges these acts are in violation of Labor Code §4603.2(b) (1) and are unfair practices under CIC §790.03(h)(5).

Company Response

The Company respectfully submits that these violations were not committed knowingly and do not amount to an unfair practice. The Company agrees that payment should have included interest in each of the three instances, and issued interest checks totaling \$143.76. The Company also agrees that the processing of medical bills was not timely. In one of these two instances the medical bill remained unpaid until a Department of Insurance Inquiry occurred. As a result of the examination, a payment was issued in the amount of \$3,343.22. In the third instance, the Company agrees that the original mileage reimbursement form was overlooked. A payment in the amount of \$33.49 was issued as a result of the examination. Additionally, the Company reinforced with claims handlers the requirement that regulations and procedures be executed.

12. In two instances, the Company (ACE American Insurance Company) failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies. In two instances the Company could not confirm the actual date bills were received. The Department alleges these acts are in violation of Title 8 CCR §10109(d) and are unfair practices under CIC §790.03(h) (3).

Company Response



The Company respectfully disagrees. While the Company acknowledges the error in date-stamping, it maintains that the payments were made timely. Additionally, the Company has reinforced regulations and procedures regarding proper recording of bills.

COMMERCIAL AUTO

13. In one instance, the Company (ACE American Insurance Company) failed to investigate whether a child passenger restraint system was in use in an accident. The Department alleges this act is in violation of CIC §11580.011(e) and is an unfair practices under CIC §790.03(h) (3).

Company Response

The Company's practices and procedures require that adjusters investigate whether a child passenger restraint system was in use in an accident. The Company agrees that its current practices and procedures concerning child restraining seats were not followed in this one instance. Going forward, the Company will reinforce its Best Practices Manual procedure with all adjusters to ensure that the procedure of investigating whether a child restrain seat was within the vehicle, at the time of a loss, is documented in all claim files. The company respectfully submits that this one inadvertent error does not constitute an unfair practice.

Sincerely,



James H. Clay
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