

**[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**

**ACA INSURANCE COMPANY
NAIC # 10921 CDI # 4824-9**

**WESTERN UNITED INSURANCE COMPANY
NAIC # 37770 CDI # 3229-2**

AS OF NOVEMBER 30, 2013

ADOPTED DECEMBER 29, 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



December 29, 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:

**ACA Insurance Company
NAIC # 10921**

**Western United Insurance Company
NAIC # 37770**

Group NAIC # 1278

Hereinafter, the Companies listed above also will be referred to individually as Western United, WUIC, ACA, the Company, 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) pursuant to California Insurance Code section 12938(b)(1).

FOREWORD

The examination covered the claims handling practices of the aforementioned Companies on Private Passenger Automobile and on Fire & Other Liability (also known as Homeowner / Dwelling Fire) claims closed during the period from December 1, 2012 through November 30, 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 by the examiner, 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 December 1, 2012 through November 30, 2013; a review of previous CDI market conduct claims examination reports on these Companies; and a review of prior CDI enforcement actions.

The review of the sample of individual claims files was conducted at the offices of the Companies in Walnut Creek, California.

EXECUTIVE SUMMARY OF CLAIMS SAMPLE REVIEWED

The Private Passenger Automobile and the Fire & Other Liability claims reviewed were closed from December 1, 2012 through November 30, 2013, referred to as the “review period”. The examiners randomly selected 153 WUIC claims files and 82 ACA claims files for examination. The examiners cited 65 alleged claims handling violations of the California Insurance Code and the California Code of Regulations from this sample file review.

Findings of this examination included the failure to provide written explanations of the basis for the depreciation of items on property claims, the failure to send determination-of-fault letters, and the failure to communicate the steps for claiming recovery of the depreciation holdback amount.

In addition, subsequent to the examination the Department identified cases in the selected sample of claims in which the Companies applied depreciation to overhead and profit. The Department alleges these acts are in violation of CIC § 2051(b)(2) and are unfair practices under CIC § 790.03(h)(5).

The Company states that it believes it complied with CIC Section 2051(b)(2), CCR Section 2695.9(f)(1), and CIC Section 790.03(h)(5), stating that depreciation of overhead and profit on materials is not proscribed by the above statutes and regulations. The Company also advises that it does not depreciate overhead and profit, but rather, overhead and profit is simply an arithmetic function of the underlying costs. The Company advises that it calculates overhead and profit as a set percentage of the cost of repairs, including the depreciated cost of materials. The Company states it only reduces overhead and profit in proportion to the underlying material cost that is depreciated. In other words, if the cost of the material is depreciated, the profit and overhead are concomitantly reduced based upon the depreciated value of the materials. The Company further states, the fact that overhead and profit is calculated in certain claims based on a lesser cost of materials due to the permissible depreciation

of the materials does not mean that the overhead and profit have been depreciated. Notwithstanding the above, the Company agrees to make process changes to address the Department's concerns. The Company will change the settings in its Xactimate estimating software by November 1, 2015 to not apply any reduction to overhead and profit when calculating actual cash value.

The Department disagrees with the Company's position that it only reduces overhead and profit in proportion to the underlying material cost that is depreciated. Sample files reviewed indicate overhead and profit was depreciated in addition to depreciation taken on materials. The Company's resolution does not have a measure to address reimbursement for claimants whose claims were adjusted for depreciation on overhead and profit.

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

The review of market analysis and consumer complaint identified no specific areas of concern.

The previous claims examination of Western United Insurance Company reviewed a period from December 1, 2002 through November 30, 2003. The most significant noncompliance issue identified in the previous examination report was the Company's failure to maintain all documents, notes, and work papers that pertain to the claim. This issue was not identified as problematic in the current examination. There have been no prior claims examinations conducted upon ACA Insurance Company.

The Companies have not been the subject of a prior enforcement action by the California Department of Insurance.

Western United Insurance Company changed its name to CSAA General Insurance Company, effective February 20, 2014. ACA Insurance Company changed its name to CSAA Fire & Casualty Insurance Company, effective March 13, 2014.

DETAILS OF THE CURRENT EXAMINATION

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

WUIC SAMPLE FILES REVIEW			
LINE OF BUSINESS / CATEGORY	CLAIMS IN REVIEW PERIOD	SAMPLE FILES REVIEWED	NUMBER OF ALLEGED VIOLATIONS
Private Passenger Automobile / Physical Damage (Collision and Comprehensive)	1,876	68	11
Private Passenger Automobile / Liability (Property Damage and Bodily Injury)	2,735	65	15
Private Passenger Automobile / Uninsured Motorist (Uninsured Motorist Bodily Injury and Uninsured Motorist Property Damage)	138	16	2
Private Passenger Automobile / Medical Payment	156	4	-0-
TOTALS	5,713	153	28

ACA SAMPLE FILES REVIEW			
LINE OF BUSINESS / CATEGORY	CLAIMS IN REVIEW PERIOD	SAMPLE FILES REVIEWED	NUMBER OF ALLEGED VIOLATIONS
Private Passenger Automobile / Physical Damage (Collision and Comprehensive)	85	2	-0-
Private Passenger Automobile / Liability (Bodily Injury and Property Damage)	177	5	-0-
Private Passenger Automobile / Uninsured Motorist (Uninsured Motorist Bodily Injury Uninsured Motorist Property Damage)	23	4	-0-
Private Passenger Automobile / Medical Payment	58	1	-0-
Fire and Other Liability Homeowner / Dwelling Fire / Contents Except Water & Mold	1,760	38	26
Fire and Other Liability Homeowner / Dwelling Fire / Contents Including Water & Mold	1,175	25	11
Fire and Other Liability Homeowner / Dwelling Fire / Liability	204	6	-0-
Fire and Other Liability Homeowner / Dwelling Fire / Medical Payment	40	1	-0-
TOTALS	3,611	82	37

TABLE OF TOTAL ALLEGED VIOLATIONS

Citation	Description of Allegation	WUIC Number of Alleged Violations	ACA Number of Alleged Violations
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.	-0-	16
CCR §2632.13(e)(1) *[CIC §790.03(h)(3)]	The Company failed to properly advise the insured that the driver of the insured vehicle was principally at-fault for an accident. The determination of fault letter was not sent.	13	-0-
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.	-0-	5
CIC §2051.5(b)(1) *[CIC §790.03(h)(1)]	The Company improperly imposed upon an insured a time limit to collect the full replacement cost of the loss. No time limit of less than 12 months from the date that the first payment toward the actual cash value is made shall be placed upon an insured in order to collect the full replacement cost of the loss, subject to the policy limit.	-0-	4
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.	-0-	3
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.	-0-	3
CCR §2695.7(b)(1) *[CIC §790.03(h)(13)]	The Company failed to provide in writing the reasons for the denial of the claim in whole or in part including the factual and legal bases for each reason given.	1	2
CCR §2695.7(d) *[CIC §790.03(h)(3)]	The Company failed to conduct and diligently pursue a thorough, fair and objective investigation.	3	-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	2
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-

Citation	Description of Allegation	WUIC Number of Alleged Violations	ACA Number of Alleged Violations
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.	2	-0-
CCR §2695.8(b)(1)(A) *[CIC §790.03(h)(5)]	The Company failed to include, in the settlement, fees incidental to the transfer of the vehicle to salvage status.	2	-0-
CCR §2695.8(b)(2) *[CIC §790.03(h)(5)]	The Company failed to itemize and document in the claim file the adjustment from the cost of the comparable automobile. Deductions taken from the cost of a comparable automobile that cannot be supported shall not be used.	2	0
CCR §2695.5(b) *[CIC §790.03(h)(2)]	The Company failed to respond to communications within 15 calendar days.	0	1
CCR §2695.7(p) *[CIC §790.03(h)(3)]	The Company failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation.	1	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.	0	1
CIC §560 *[CIC §790.03(h)(5)]	The Company failed to issue payment to the repairer or to the name insured and repairer jointly within 10 days of receipt of an itemized bill or invoice.	1	0
Total Number of Alleged Violations		28	37

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

CIC §790.03(h)(1) The Company misrepresented to claimants pertinent facts or insurance policy provisions relating to any coverages at issue.

CIC §790.03(h)(2) The Company failed to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

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

- CIC §790.03(h)(3) The Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies.
- CIC §790.03(h)(4) The Company failed to affirm or deny coverage of claims within a reasonable time after proof of loss requirements had been completed and submitted by the insured.
- CIC §790.03(h)(5) The Company failed to effectuate prompt, fair, and equitable settlements of claims in which liability had become reasonably clear.
- CIC §790.03(h)(13) The Company failed to provide promptly a reasonable explanation of the bases relied upon in the insurance policy, in relation to the facts or applicable law, for the denial of a claim or for the offer of a compromise settlement.

TABLE OF ALLEGED VIOLATIONS BY LINE OF BUSINESS

PRIVATE PASSENGER AUTOMOBILE WUIC 2013 Written Premium: \$40,342,945 ACA 2013 Written Premium: \$160,882	NUMBER OF ALLEGED VIOLATIONS
AMOUNT OF RECOVERIES \$2,224.44	
CCR §2632.13(e)(1) [CIC §790.03(h)(3)]	13
CCR §2695.7(d) [CIC §790.03(h)(3)]	3
CCR §2695.7(h) [CIC §790.03(h)(5)]	2
CCR §2695.8(b)(1) [CIC §790.03(h)(5)]	2
CCR §2695.8(b)(1)(A) [CIC §790.03(h)(5)]	2
CCR §2695.8(b)(2) [CIC §790.03(h)(5)]	2
CCR §2695.7(b)(1) [CIC §790.03(h)(13)]	1
CCR §2695.7(g) [CIC §790.03(h)(5)]	1
CCR §2695.7(p) [CIC §790.03(h)(3)]	1
CIC §560 [CIC §790.03(h)(5)]	1
SUBTOTAL	28

FIRE & OTHER LIABILITY ACA 2013 Written Premium: \$58,962,508	NUMBER OF ALLEGED VIOLATIONS
AMOUNT OF RECOVERIES \$16,040.02	
CCR §2695.9(f) [CIC §790.03(h)(3)]	16
CCR §2695.4(a) [CIC §790.03(h)(1)]	5
CIC §2051.5(b)(1) [CIC §790.03(h)(1)]	4
CCR §2695.3(a) [CIC §790.03(h)(3)]	3
CCR §2695.7(b) [CIC §790.03(h)(4)]	3
CCR §2695.7(b)(1) [CIC §790.03(h)(13)]	2
CCR §2695.7(g) [CIC §790.03(h)(5)]	2
CCR §2695.5(b) [CIC §790.03(h)(2)]	1
CCR §2695.9(f) [CIC §790.03(h)(5)]	1
SUBTOTAL	37

TOTAL	65
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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 Companies are required to identify remedial or corrective action that has been or will be taken to correct the deficiency. The Companies are obligated to ensure that compliance is achieved.

Any noncompliant practices identified in this report may extend to other jurisdictions. The Companies were asked if they intend to take appropriate corrective action in all jurisdictions where applicable. The Companies intend to implement corrective actions in all jurisdictions, where appropriate.

Money recovered within the scope of this report was \$18,264.46 as described in sections number 4, 5, 6, 8, 12, 13, and 17 below.

PRIVATE PASSENGER AUTOMOBILE

1. **In 13 instances, the Company failed to properly advise the insured that the driver of the insured vehicle was principally at-fault for an accident.** In these 13 instances, the Company failed to issue the determination of fault letter. The Department alleges these acts are in violation of CCR §2632.13(e)(1) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: Western United agrees in these 13 instances that the adjusters neglected to send a principally-at-fault letter to the insured once the liability determination had been finalized. The Company states these errors were made inadvertently. To correct the errors, the Company sent out the principally-at-fault letter to each insured identified in these instances. The adjusters have been counseled by their direct supervisors about the necessity of issuing the at-fault letter to an insured.

In addition, Western United implemented a new Claims Administration System (CAS) to replace its legacy claims administration platforms. The Company believes CAS will largely mitigate this particular adjuster error in the future. Specifically, CAS has built-in automatic reminders to adjusters to send the at-fault correspondence, which

the legacy systems did not. The Company completed transition of all automobile claims to CAS in December 2013.

2. In three instances, the Company failed to conduct and diligently pursue a thorough, fair and objective investigation. 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 Company's Response: Western United agrees there was a delay in the investigations in these three instances. The handling adjusters have been counseled by their direct supervisors on the importance of completing their investigations promptly.

3. In two instances, the Company failed, upon acceptance of the claim, to tender payment within 30 calendar days. 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 Company's Response: Western United agrees in these two instances that the file handler did not issue payment within 30 calendar days. The Company believes the failure in these instances was an inadvertent oversight. The adjusters were counseled by their direct supervisors on the importance of issuing timely payments.

4. In two instances, the 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).

Summary of the Company's Response: Western United agrees in these two instances that it did not include unexpired Department of Motor Vehicle fees in the total loss settlement. In each instance, the Total Loss Specialist inadvertently omitted these fees from the settlement calculation. As a result of these findings and to correct the errors, the Company issued additional payments totaling \$1,133.92 to the two identified claimants. For each instance, the handling specialist has been reminded of the requirement to include unused DMV fees when calculating a total loss settlement.

5. In two instances, the Company failed to include, in the settlement, fees incident to the transfer of the vehicle to salvage status. 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: Western United agrees in these two instances that it paid \$18 instead of \$19 for the fee to transfer the title to salvage status in the owner-retained total loss settlement. To correct the error, the Company issued \$1.00 to each of the two identified insureds. The Company reminded the Total Loss Specialist who handled each claim of the requirement to pay the correct salvage certificate fee amount.

6. **In two instances, the Company failed to itemize and document in the claim file the adjustment from the cost of the comparable vehicle. Deductions taken from the cost of a comparable automobile that cannot be supported shall not be used.** The Department alleges these acts are in violation of CCR §2695.8(b)(2) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: Western United agrees in these two instances that it failed to document the claim file with the reason that would support the condition rating of the total loss vehicle as "fair" for the market valuation report. As a result of these findings, and to correct the errors, the Company issued additional payments to the two identified vehicle owners totaling \$1,068.52. The Company is aware of this requirement and believes the failure in these two instances was an inadvertent oversight. The supervisors have reminded the Total Loss Specialists that the California Code of Regulations Section 2695.8(b)(2) requires the itemization and documentation in the claim file of all adjustments.

7. **In one instance, the Company failed to provide in writing the reasons for the denial of the claim in whole or in part including the factual and legal bases for each reason given.** The Department alleges this act is in violation of CCR §2695.7(b)(1) and is an unfair practice under CIC §790.03(h)(13).

Summary of the Company's Response: Western United agrees in this instance it did not send a written denial letter to the insured. The Company is aware of this requirement and believes the failure in this claim was an inadvertent oversight. The handling adjuster has been advised by his supervisor that all denials must be written.

8. **In one instance, the Company attempted to settle a claim by making a settlement offer that was unreasonably low.** 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: Western United agrees it did not issue payment for the correct settlement amount in this instance. The Company is aware of the importance of paying the correct amount in any loss settlement and believes this was a typographical error by the adjuster. As a result of this finding and to correct the error, the Company issued \$20.00 to the claimant. The file handler has been reminded by his supervisor of the importance of issuing the correct loss settlement amount.

9. **In one instance, the Company failed to provide written notification to a first party claimant as to whether the insurer intends 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).

Summary of the Company's Response: Western United states its practice is to advise the insured in writing whether subrogation will be pursued and acknowledges this was not done in this instance. The Company is aware of this requirement and believes the failure in this instance was an oversight by the handling adjuster. The

adjuster has been counseled by his supervisor of the importance providing written notifications regarding the pursuit of subrogation.

10. In one instance, the Company failed to issue payment to the repairer or to the named insured and repairer jointly within ten days of receipt of an itemized bill or invoice. The Department alleges this act is in violation of CIC §560 and is an unfair practice under CIC §790.03(h)(5).

Summary of the Company's Response: Western United agrees it did not issue payment to the repairer within 10 days of receipt of the repair estimate. The Company is aware of this requirement and believes the failure in this instance was an inadvertent oversight by the handling adjuster. The adjuster has been counseled by his supervisor of this importance of paying repair estimates promptly and correctly.

FIRE & OTHER LIABILITY **HOMEOWNER / DWELLING FIRE**

11. In 16 instances, the Company failed to fully explain the basis for any adjustment to the claimant in writing. The Department alleges these acts are in violation of CCR §2695.9(f) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: ACA states it complied with CCR §2695.9(f) and CIC §790.03(h)(3) in these instances. The Company reports the Xactimate software used provided ratings for property based on its apparent usage, specifically, "new", "light use", "normal use" or "heavy use." However, because an adjuster has no actual knowledge of how an item was used, a usage rating is inherently a rating based on condition. For example, the conclusion by an adjuster that property was subjected to heavy use is based upon the adjuster's perception of the condition of the property; specifically, the item of property appears to the adjuster to be in below-average condition compared to other property of a similar nature. Conversely, if an object was subjected to heavy usage but well-maintained so that it appears to the adjuster to have been lightly used, that would have been based on the adjuster's perception that the condition of the property was above average. Consequently, although the Xactware's Xactimate desktop estimating software used the label "usage," it was effectively rating based upon "condition."

Notwithstanding the above, the Company agrees to make further process changes to address the Department's concerns. The Company is working with Xactware to update its Xactimate desktop estimating software to change the "usage" label to "condition." Xactware will also change its options under "condition" as follows: "new", "above average", "average", "below average", and "replace." The software update will be ready for production implementation within the Company in second quarter of 2015. The Company will have its adjusters include additional comments for all condition ratings designated "Below Average" justifying the rating on a line item basis directly in the estimate, which will be displayed to the claimant.

In addition, the Company will revised its structural settlement letters to provide more detailed information to claimants regarding the different condition ratings and request that the insured review the ratings for agreement. Implementation of the revised letters will be aligned with the desktop software updates in progress with Xactimate, scheduled for second quarter 2015.

12. In five instances, the Company failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy. ACA failed to provide information on how to recover depreciation holdback in these instances. 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: ACA agrees in these instances that it did not properly explain to the insured how to recover the property depreciation amount, known as the holdback. As a result of these findings and to correct the errors, the Company issued additional payments to the identified insureds totaling \$2,459.56. Effective June 4, 2014, the Company revised its structural settlement letter templates to provide an accurate and complete explanation of the process for obtaining any recoverable depreciation.

13. In four instances, the Company improperly imposed upon an insured a time limit to collect the full replacement cost of the loss. No time limit of less than 12 months from the date that the first payment toward the actual cash value is made shall be placed upon an insured in order to collect the full replacement cost of the loss, subject to the policy limit. In two instances, ACA incorrectly informed the insured that the claim for depreciation needed to be made within 180 days from the date of the first payment. In one instance, the insured was informed that the time period was six months. In the final instance, the Company incorrectly informed the insured that the time period to claim depreciation begins from the date of loss rather than from the date of the first payment. The Department alleges these acts are in violation of CIC §2051.5(b)(1) and are unfair practices under CIC §790.03(h)(1).

Summary of the Company's Response: ACA agrees in these instances that it improperly imposed a time limit to recover the property depreciation amount, known as the holdback. As a result of these findings and as a good faith effort to make the insured whole, the Company issued the holdback amounts totaling \$13,472.51 to the four identified insureds without asking whether or not the repairs were completed. Effective June 4, 2014, the Company revised the structural settlement letter templates to provide an accurate and complete explanation of the process for obtaining any recoverable depreciation.

14. In three instances, the Company failed to maintain all documents, notes and work papers which reasonably pertain to each claim in such detail that pertinent events and the dates of the events can be reconstructed. The Department alleges these acts are in violation of CCR §2695.3(a) and are unfair practices under CIC §790.03(h)(3).

Summary of the Company's Response: ACA agrees it could not find copies of letters in three instances. The handling adjusters have been counseled by their direct supervisor of the importance of storing correspondence to and from claimants.

In addition, ACA implemented a new Claims Administration System (CAS) to replace its legacy claims administration platforms. The Company believes CAS will largely mitigate this particular adjuster error in the future. CAS manages generation of outgoing correspondence and copies of all documents generated will be automatically retained within the document management systems. The Company completed transition of all dwelling claims to CAS in February 2015.

15. In three instances, the Company failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days. The Department alleges these acts are in violation of CCR §2695.7(b) and are unfair practices under CIC §790.03(h)(4).

Summary of the Company's Response: ACA agrees in these three instances it did not adhere to the time requirement set forth in CCR §2695.7. The adjusters' immediate supervisor has counseled them on adherence to the 40-day requirement specified in the referenced regulation.

16. In two instances, the Company failed to provide in writing the reasons for the denial of the claim in whole or in part including the factual and legal bases for each reason given. The Department alleges these acts are in violation of CCR §2695.7(b)(1) and are unfair practices under CIC §790.03(h)(13).

Summary of the Company's Response: ACA agrees it did not provide a written denial of coverage in these two instances. The Company is aware of this requirement and believes the failure to do so is due to an oversight by the handling adjusters in these two instances. The adjusters have been counseled by their direct supervisors that the basis for a claim denial must be communicated in writing.

17. In two instances, the Company attempted to settle a claim by making a settlement offer that was unreasonably low. In the first instance, the Company applied depreciation on a fiberglass shower based on a 12-year useful life span while the depreciation guide provided a 50-year useful life span for tub/shower combinations. In the second instance, the Company failed to process the claim for simulated wood flooring under replacement cost coverage, as allowed under the policy. This error prevented the insured from claiming recoverable depreciation after the repairs were completed. The Department alleges these acts are in violation of CCR §2695.7(g) and are unfair practices under CIC §790.03(h)(5).

Summary of the Company's Response: In the first instance, ACA agrees that a 12-year life expectancy for a fiberglass shower appears to be inadequate. Xactware provided a 12-year default life expectancy for fiberglass showers. The Company requested that Xactware look into whether a 12-year life expectancy for a fiberglass shower is appropriate since a tub/shower combination has a default life expectancy of

50 years. Xactware looked into the Company's request and agreed to change the default depreciation for fiberglass showers to 50 years effective July 2014. As a result of this change, the insured received an additional replacement cost holdback amount which was included in the recoveries mentioned in summary section number 13 above.

In the second instance, the Company agrees it incorrectly applied non-recoverable depreciation to simulated wood flooring and thereby failed to explain the provision to collect recoverable depreciation. The Company is aware of the importance of paying the correct amount in any loss settlement and believes this instance was an inadvertent oversight by the handling adjuster. As a result, the Company issued \$107.95 to the insured as a supplemental loss payment.

18. In one instance, the Company failed to respond to communications within 15 calendar days. The Department alleges this act is in violation of CCR §2695.5(b) and is an unfair practice under CIC §790.03(h)(2).

Summary of the Company's Response: ACA agrees in this instance the adjuster did not respond to the status request from the insured, received April 9, 2013, within the required timeframe. The Company is aware of this requirement and believes the failure in this claim is an inadvertent oversight by the handling adjuster. The immediate supervisor has counseled the handling adjuster of the importance to respond timely to all communications.

19. In one instance, the Company improperly applied betterment or depreciation to property not normally subject to repair and replacement during the useful life of the property. The Department alleges this act is in violation of CCR §2695.9(f) and is an unfair practice under CIC §790.03(h)(5).

Summary of the Company's Response: As a result of this examination, ACA states it will not depreciate drywall (including texture and taping), insulation, studs, and baseboards. The Company implemented its updated standards to reflect this change effective June 2, 2014. In the identified instance, the insured had made a claim for, and received, reimbursement for the depreciated amount taken on drywall and on finished trim work prior to the examination.