

**[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**

**MERCHANTS BONDING COMPANY (MUTUAL)
NAIC # 14494 CDI # 2482-8**

AS OF JANUARY 31, 2015

ADOPTED JUNE 19, 2015

STATE OF CALIFORNIA



**CALIFORNIA DEPARTMENT OF INSURANCE
MARKET CONDUCT DIVISION
FIELD CLAIMS BUREAU**

NOTICE

The provisions of Section 735.5(a) (b) and (c) of the California Insurance Code (CIC) describe the Commissioner's authority and exercise of discretion in the use and/or publication of any final or preliminary examination report or other associated documents. The following examination report is a report that is made public pursuant to California Insurance Code Section 12938(b)(1) which requires the publication of every adopted report on an examination of unfair or deceptive practices in the business of insurance as defined in Section 790.03 that is adopted as filed, or as modified or corrected, by the Commissioner pursuant to Section 734.1.

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DEPARTMENT OF INSURANCE

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



June 19, 2015

The Honorable Dave Jones
Insurance Commissioner
State of California
300 Capitol Mall
Sacramento, California 95814

Honorable Commissioner:

Pursuant to instructions, and under the authority granted under Part 2, Chapter 1, Article 4, Sections 730, 733, 736, and Article 6.5, Section 790.04 of the California Insurance Code; and Title 10, Chapter 5, Subchapter 7.5, Section 2695.3(a) of the California Code of Regulations, an examination was made of the claims handling practices and procedures in California of:

Merchants Bonding Company (Mutual)
NAIC # 14494

Group NAIC # 3479

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

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

FOREWORD

The examination covered the claims handling practices of the aforementioned Company on surety claims closed during the period from February 1, 2014 through January 31, 2015. The examination was made to discover, in general, if these and other operating procedures of the Company conform to the contractual obligations in the policy forms, the California Insurance Code (CIC), the California Code of Regulations (CCR) and case law.

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

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

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

SCOPE OF THE EXAMINATION

To accomplish the foregoing, the examination included:

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

2. A review of the application of such guidelines, procedures, and forms, by means of an examination of a sample of individual claims files and related records.

3. A review of the California Department of Insurance's (CDI) market analysis results; a review of consumer complaints and inquiries about this Company closed by the CDI during the period February 1, 2014 through January 31, 2015; and a review of previous CDI market conduct claim examination reports on this Company.

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

EXECUTIVE SUMMARY OF CLAIMS SAMPLE REVIEWED

The surety claims reviewed were closed from February 1, 2014 through January 31, 2015, referred to as the “review period”. The examiners randomly selected 50 claims files for examination. The examiners cited two alleged claims handling violations of the California Insurance Code from this sample file review.

Findings of this examination included, in one instance each, the failure to send timely notification of a pending statute of limitation and failure to send a written denial letter when proof of claim had been received but not paid.

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

Except as noted below, market analysis did not identify any specific issues of concern.

The Company was the subject of two California consumer complaints and inquiries closed from February 1, 2014 through January 31, 2015, in regard to the line of business reviewed in this examination. The CDI alleged three violations of law including failure to: conduct a diligent investigation, respond to communication from claimants within 15 days of receipt and respond to the California Department of Insurance within 21 calendar days. The examiner focused on these issues during the course of the file review.

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

DETAILS OF THE CURRENT EXAMINATION

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

MERCHANTS BONDING COMPANY (MUTUAL)SAMPLE FILES REVIEW			
LINE OF BUSINESS / CATEGORY	CLAIMS IN REVIEW PERIOD	SAMPLE FILES REVIEWED	NUMBER OF ALLEGED VIOLATIONS
Property & Casualty / Surety	194	50	2
TOTALS	194	50	2

TABLE OF ALLEGED VIOLATIONS

Citation	Description of Allegation	MBC Number of Alleged Violations
CCR §2695.10(g) [CIC §790.03(h)(3)]	The Company failed to provide written notice of any statute of limitation immediately when the notice of claim is within 60 days prior to the expiration date of the statute.	1
CCR §2695.10(b) [CIC §790.03(h)(3)]	The Company failed to provide a written denial of claim within 40 days of receiving proof of claim.	1
Total Number of Alleged Violations		2

***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.
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TABLE OF ALLEGED VIOLATIONS BY LINE OF BUSINESS

<p align="center">SURETY 2014 Written Premium: \$9,294,432</p> <p>AMOUNT OF RECOVERIES \$00.00</p>	<p align="center">ALLEGED VIOLATIONS</p>
<p>CCR §2695.10(g) [CIC §790.03(h)(3)]</p>	<p align="center">1</p>
<p>CCR §2695.10(b) [CIC §790.03(h)(3)]</p>	<p align="center">1</p>
<p align="center">TOTAL</p>	<p align="center">2</p>

SUMMARY OF EXAMINATION RESULTS

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

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

Any noncompliant practices identified in this report may extend to other jurisdictions. The Company was asked if it intends to take appropriate corrective action in all jurisdictions where applicable. The Company indicates there was no global corrective action taken but have taken steps to correct the claim files in question.

There were no recoveries discovered within the scope of this report.

SURETY

1. **In one instance, the Company failed to provide written notice of any statute of limitation or other time period requirement immediately as the notice of claim was received within 60 days of the expiration of the statute.** The Department alleges this act is in violation of CCR §2695.10(g) and an unfair practice under CIC §790.03(h)(3).

Summary of the Company's Response: The Surety indicates it has procedures in place to provide written notice of the Statute of Limitations pursuant to CCR §2695.10(g). The Surety acknowledges this isolated instance of non-compliance and states this was not reflective of standard procedure. A statute letter has now been sent.

2. **In one instance, the Company failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days. Every Company that denies a claim shall do so in writing. Written notification must include notification that the claimant may have the matter reviewed by the California Department of Insurance.** The Surety failed to provide a written denial in one instance after proof of claim had been received from a non-represented claimant against a bond, The Department alleges this act is in violation of CCR §2695.10(b) and is an unfair practice under CIC §790.03.

Summary of the Company's' Response: The Surety indicates it has procedures in place to provide a written denial of claims pursuant to CCR §2695.10(g). The Surety acknowledges this isolated instance of non-compliance and states this was not reflective of standard procedure. The Company states it will contact the principal to confirm that the claimant has been made whole and send the appropriate correspondence.