

**[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  
CAROLINA CASUALTY INSURANCE COMPANY  
NAIC # 10510 CDI # 1831-7**

**AS OF JULY 31, 2014**

**ADOPTED DECEMBER 21, 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 21, 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:

**Carolina Casualty Insurance Company**  
**NAIC # 10510**  
**Group NAIC # 0098**

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

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

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

Alleged violations identified in this report, any criticisms of practices and the Company 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 the Company closed by the CDI during the period August 1, 2013 through July 31, 2014; a review of previous CDI market conduct claims examination reports on the Company; and a review of prior CDI enforcement actions.

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 Commercial Automobile claims reviewed were closed from August 1, 2013 through July 31, 2014, referred to as the “review period”. The examiners randomly selected 116 CCIC claim files for examination. The examiners cited 25 alleged claims handling violations of the California Insurance Code and other specified codes from this sample file review.

Findings of this examination include a failure to include in the settlement the license fees and other annual fees computed based upon the remaining term of the current registration, the failure to include all applicable taxes and the one-time fees incident to transfer of evidence of ownership of a comparable vehicle; a failure to deduct a salvage value from the settlement that was determined by the amount for which a salvage pool or a licensed salvage dealer, wholesale motor vehicle auction or dismantler will purchase the salvage; a failure to include, in the settlement, fees incident to the transfer of the vehicle to salvage status; and a failure to fully itemize in writing the determination of the cost of a comparable vehicle at the time the settlement offer was made.

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

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

The Company was the subject of four (4) California consumer complaints and inquiries closed from August 1, 2013 through July 31, 2014, in regard to the line of business reviewed in this examination. Of the complaints and inquiries, the CDI determined none of the complaints were justified.

The previous claims examination reviewed a period from January 1, 2003 through December 31, 2003. The most significant noncompliance issues identified in the previous examination report was the Company's failure to explain in writing for the claimant the basis of the fully itemized cost of a comparable automobile; a failure to provide written notice of the need for additional time every 30 calendar days; a failure upon receiving proof of claim to accept or deny the claim within 40 calendar days; and a failure to contain all documents, notice and work papers that pertain to the claim. Instances of failure to provide a written itemization of the cost of a comparable vehicle were also identified in the current examination.

CCIC's claim handling has not been the subject of a CDI enforcement action.

## DETAILS OF THE CURRENT EXAMINATION

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

<b>CCIC 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 Automobile/ Collision	393	49	19
Commercial Automobile / Comprehensive	90	11	2
Commercial Automobile / Property Damage	931	40	4
Commercial Automobile / Bodily Injury	237	10	0
Commercial Automobile / Uninsured Motorist Property Damage ( UMPD)	4	1	0
Commercial Automobile / Uninsured Motorist Bodily Injury (UMBI)	18	5	0
<b>TOTALS</b>	<b>1673</b>	<b>116</b>	<b>25</b>

## TABLE OF TOTAL ALLEGED VIOLATIONS

Citation	Description of Allegation	CCIC 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
	The Company failed to include, in the settlement, the one-time fees incident to transfer of evidence of ownership of a comparable automobile.	2
	The Company failed to include, in the settlement, all applicable taxes.	2
CCR §2695.8(b)(1)(A) *[CIC §790.03(h)(3)]	The Company failed to deduct a salvage value from the settlement that was determined by the amount for which a salvage pool or a licensed salvage dealer, wholesale motor vehicle auction or dismantler will purchase the salvage.	4
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.	4
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. Determination of the actual cash value (ACV) was not explained.	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. . Itemization of all components of the settlement was not provided.	1
CCR §2695.5(b) *[CIC §790.03(h)(2)]	The Company failed to respond to communications within 15 calendar days.	2
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.	2
CIC §790.03(h)(1)	The Company misrepresented to claimants pertinent facts or insurance policy provisions relating to any coverages at issue.	1

Citation	Description of Allegation	CCIC Number of Alleged Violations
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.	1
CCR §2695.8(f)(3) *[CIC §790.03(h)(3)]	The Company failed to supply the claimant with a copy of the insurer adjusted estimate from the repair shop of the claimant's choice	1
<b>Total Number of Alleged Violations</b>		<b>25</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**

<p align="center"><b>COMMERCIAL AUTOMOBILE</b>                      2014 Written Premium: \$24,870,954</p> <p><b>AMOUNT OF RECOVERIES            \$8,802.81</b></p>	<p align="center"><b>NUMBER OF ALLEGED VIOLATIONS</b></p>
CCR §2695.8(b)(1) [CIC §790.03(h)(5)]	6
CCR §2695.8(b)(1)(A) [CIC §790.03(h)(3)]	4
CCR §2695.8(b)(1)(A) [CIC §790.03(h)(5)]	4
CCR §2695.8(b)(4) [CIC §790.03(h)(3)]	4
CCR§2695.5(b) [CIC §790.03(h)(2)]	2
CCR§2695.7(g) [CIC §790.03(h)(5)]	2
CCR §2695.8(f)(3) [CIC §790.03(h)(3)]	1
CIC §790.03(h)(1)	1
CIC §790.03(h)(3)	1
<b>TOTAL</b>	<b>25</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 Company intends to implement corrective actions in all jurisdictions, where applicable.

Money recovered within the scope of this report was \$8,802.81 as described in sections number 1, 2, 3 and 6 below. Pursuant to the findings of the examination as described in sections number 1, 2 and 3 below, the Company is conducting a closed claims survey. The results of the survey and additional payments, if any, will be reported to the Department by December 31, 2015.

### **COMMERCIAL AUTOMOBILE**

**1. In six instances, the Company failed to comply with the requirements of CCR §2695.8(b)(1) as described below:**

**1(a). 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 Company failed to pay unused annual and other license fees.

**1(b). In two instances, the Company failed to include, in the settlement, the one-time fees incident to transfer of evidence of ownership of a comparable vehicle.** The Company failed to pay the \$15.00 transfer fees.

**1(c). In two instances, the Company failed to include in the settlement all applicable taxes.** The Company failed to calculate and pay sales tax on the actual cash value of the total loss vehicles.

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 acknowledges the findings that total loss settlements were not calculated properly on Company- retained salvage vehicles. The Company took corrective action as described below:

**1(a).** The Company reopened two claims and issued \$1,863.18 for the unused annual and other license fees owed to the insured.

**1(b).** The Company reopened two claims and issued \$30.00 for the unpaid transfer fees owed to the insureds.

**1(c).** The Company reopened two claims and issued \$1,923.85 for applicable taxes owed to the insureds.

Additionally, the Company agreed to conduct a three year self-audit survey to identify improper or inaccurate payments on Company retained total loss settlements for the period of August 16, 2012 – August 15, 2015. The Company will report the results of the survey to the Department by December 31, 2015.

The Company also held special meetings and conducted claims training on July 20, 2015, to discuss the audit findings on total loss settlements and overall claims handling. The Company also scheduled a law firm to conduct on-site California compliance training, which will reinforce the findings of the audit on October 21, 2015. A separate Claims Department in-service meeting to be scheduled by October 30, 2015 will review procedural and oversight changes to ensure on-going processes and compliance with regulatory guidelines.

Further, the Company provided the Department with a Comprehensive Remedial Plan that includes the following corrective measures:

- The Company implemented policy/procedural changes to its Best Practices guidelines and total loss settlement procedures.
- The Company revised its Best Practices Manual to comply with California statutes and regulatory guidelines.
- The Company created and adopted an additional inter-departmental oversight and audit process with Regulatory Compliance and Claims for total loss fees and sales tax calculations.
- The Company created a new Total Loss Unit.
- The Company constructed and implemented additional claims templates for adjusters' use in total loss settlements.

- The Company added a Claims Assistant for the Total Loss Unit for oversight of notices and responses to claimants.
- The Company directed its Commercial Auto Supervisors to audit compliance with notices and responses, and adherence with timelines in monthly audits.
- The Company employed two (2) national vendors for appraisals and valuations to provide comparative and salvage values in conformity with California statutes and regulations.
- The Company implemented an Annual Policy/Procedure Group to review compliance of policies and procedures.

**2. In four instances, the Company failed to deduct a salvage value from the settlement that was determined by the amount for which a salvage pool or a licensed salvage dealer, wholesale motor vehicle auction or dismantler will purchase the salvage.** The Company failed to establish a salvage amount for which a salvage pool or a licensed salvage dealer, wholesale motor vehicle auction or dismantler will purchase the salvage vehicle. 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 acknowledges these four instances and agrees this settlement practice does not comply with regulatory guidelines. The Company reopened the claims to determine the applicable salvage value and issued additional payments in the amount of \$4,308.80.

Further, the Company agreed to conduct a closed claims self-survey to identify inaccurate salvage value determinations on total loss settlements from August 16, 2012 – August 15, 2015. The Company will report the results of the survey to the Department by December 31, 2015.

The Company also implemented procedural changes, education and claims training, additional staffing and other oversight functions in a Comprehensive Remedial Plan as outlined in section one (1) above.

**3. In four instances, the Company failed to include, in the settlement, fees incident to the transfer of the vehicle to salvage status.** The Company failed to include the Salvage Certificate fees in the total loss settlement of owner-retained salvage vehicles. 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 acknowledges the findings. As a result of this examination, the Company issued additional payments on two claims in the amount of \$39.00. On the remaining two instances, the Company determined that maximum policy limits were paid and no additional monies were owed to claimants.

The Company also agreed to conduct a closed claims survey to identify claims with improper or inaccurate payments on salvage certificate fees from August 16, 2012 –

August 15, 2015. The Company will report the results of the audit to the Department by December 31, 2015.

Further, the Company implemented procedural changes, education and claims training, additional staffing and other oversight functions in a Comprehensive Remedial Plan as outlined in section one (1) above.

**4. In four instances, the Company failed to comply with the requirements of CCR §2695.8(b)(4) as described below:**

**4(a). In three instances, 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.** The Company failed to include an itemization of the total loss settlement to the claimants, including specific settlement details on the determination of the salvage value, sales taxes, and deductible.

**4(b). In one instance, 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.** The Company failed to provide the claimant with a copy of the ACV or valuation report upon which the settlement was based.

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 Company's Response:** The Company acknowledges and agrees to the findings as described below:

**4(a).** The Company agrees that its claim files did not contain enclosure letters with an itemization of all of the components of the total loss settlement. In two instances, the Company reopened the claims and sent additional correspondence itemizing the components of the total loss settlement. In one instance, the Company indicates no additional correspondence is needed as the settlement was the subject of a compromise settlement release.

**4(b).** The Company agrees that its claim file did not contain proof of written correspondence to the claimant regarding an ACV or valuation report used in the settlement of total loss claims.

The Company held special meetings and conducted claims training on July 20, 2015, to discuss the audit findings on total loss settlements and overall claims handling. The Company will also conduct on-site California compliance training to reinforce the findings of the audit on October 21, 2015. A separate Claims Department in-service meeting to be scheduled by October 30, 2015 will review procedural and oversight changes to ensure on-going processes and compliance with regulatory guidelines.

**5. In two instances, the Company failed to respond to communications within 15 calendar days.** The Company failed to respond to correspondence from an adverse carrier and from a 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 states there were on-going settlement negotiations with the claimant and the adverse carrier and both claims were settled within 30 days of receipt. However, the Company acknowledges that it did not properly monitor and send the regulatory letters to respond to correspondence within 15 days in these two instances. As a result of the examination, the Company implemented procedural changes, education and claims training, additional staffing and other oversight functions in a Comprehensive Remedial Plan as outlined in section one (1) above.

**6. 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 improperly applied a deductible provision resulting in two deductibles for a truck and trailer. In the second instance, the Company failed to pay for towing charges on a trailer. 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:** The Company acknowledges and agrees to the findings. As a result of the examination, the Company issued an additional reimbursement of \$437.98 on the deductible amount. The Company also issued \$200.00 for towing services incurred on the trailer. Further, the Company reinforced to its claims staff the importance of reviewing all policy endorsements when applying deductibles, and to comply with its "Best Practices" guidelines and procedures. Effective immediately, the Company's in-house review panel will conduct routine random audits as part of its ongoing quality control process to ensure compliance with all laws, regulation and guidelines.

**7. In one instance, the Company misrepresented to a claimant pertinent facts or insurance policy provisions relating to coverages at issue.** The Company misrepresented to the insured that the truck and trailer have two separate deductibles on the policy when the provisions of the Auto Physical Damage and Cargo endorsement has one combined deductible. The Department alleges this act is in violation of CIC §790.03(h) (1).

**Summary of the Company's Response:** The Company acknowledges the finding and has reinforced compliance with staff to review all pertinent claim documents including combined deductible endorsements.

**8. In one instance, the Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies.** The Company does not have a system in place to address return

mail or correspondence. The Company failed to verify and transmit a closure letter to the correct mailing address of an insured. The Department alleges this act is in violation of CIC §790.03(h)(3).

**Summary of the Company's Response:** The Company acknowledges this finding. As a result of the examination, the Company added a Claims Assistant in its Commercial Auto Division to assist in the oversight of notices, return mail, and correspondence from insureds/claimants. Further, the Company implemented procedural changes, education and claims training, additional staffing and other oversight functions in a Comprehensive Remedial Plan as outlined in section one (1) above.

**9. In one instances, the Company failed to supply the claimant with a copy of the insurer adjusted estimate from the repair shop of the claimant's choice.** The Company received a supplemental estimate wherein the appraiser and the auto repair shop reached an agreed price for the supplemental part for a Pull Rear Body Panel. The Company failed to provide a copy of the supplemental estimate to the insured. The Department alleges this act is in violation of CCR §2695.8(f)(3) and is an unfair practice under CIC §790.03(h)(3).

**Summary of the Company's Response:** The Company acknowledges the finding. The Company dealt with the repair facility direct and should have given the insured a copy of the supplemental estimate.

The Company also implemented procedural changes, education and claims training, additional staffing and other oversight functions in a Comprehensive Remedial Plan as outlined in section one (1) above.