

**[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**

**RIVERPORT INSURANCE COMPANY
NAIC # 36684 CDI # 4843-9**

AS OF OCTOBER 31, 2014

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:

Riverport Insurance Company
NAIC # 36684

Group NAIC # 0098

Hereinafter, the Company listed above also will be referred to as RIC 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 Commercial Automobile and Commercial Multi-Peril claims closed during the period from November 1, 2013 through October 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 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 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 the Company closed by the CDI during the period November 1, 2013 through October 31, 2014; 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 and Commercial Multi-Peril claims reviewed were closed from November 1, 2013 through October 31, 2014, referred to as the “review period”. The examiners randomly selected 120 RIC claims files for examination. The examiners cited 23 alleged claims handling violations of the California Insurance Code and the California Fair Claims Settlement Practices Regulations from this sample file review.

Findings of this examination included incomplete investigations and non-payment of total loss transfer fees.

**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 information identified no specific areas of concern. 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:

RIC SAMPLE FILES REVIEW			
LINE OF BUSINESS / CATEGORY	CLAIMS IN REVIEW PERIOD	SAMPLE FILES REVIEWED	NUMBER OF ALLEGED VIOLATIONS
Commercial Auto / Collision	51	21	4
Commercial Auto / Collision / Total Loss	6	5	1
Commercial Auto / Comprehensive	18	8	5
Commercial Auto / Comprehensive / Total Loss	2	2	8
Commercial Auto / Liability	85	33	1
Commercial Auto / Liability / Total Loss	6	6	0
Commercial Multi-Peril / Paid	63	30	4
Commercial Multi-Peril / Denied	12	5	0
Other Liability / Paid	100	10	0
TOTALS	343	120	23

TABLE OF TOTAL VIOLATIONS

Citation	Description of Allegation	RIC Number of Alleged Violations
CCR §2695.7(p) *[CIC §790.03(h)(3)]	The Company failed to provide written notification to a first party claimant of its decision to discontinue pursuit of subrogation.	4
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.	3
CCR §2695.7(d) *[CIC §790.03(h)(3)]	The Company failed to conduct and diligently pursue a thorough, fair and objective investigation.	2
CCR §2695.8(b)(1) *[CIC §790.03(h)(5)]	The Company failed to include, in the settlement, the one-time fees incident to transfer of evidence of ownership of a comparable automobile.	2
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.	2
CIC §1871.3(a) *[CIC §790.03(h)(3)]	The Company failed to secure a theft affidavit from the insured prior to the settlement of the claim.	2
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.	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.	1
CCR §2695.5(d) *[CIC §790.03(h)(3)]	The Company's claims agent failed to immediately transmit notice of claim to the insurer.	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
CCR §2695.8(b)(4) *[CIC §790.03(h)(3)]	The Company failed to take reasonable steps to verify that the determination of the cost of a comparable vehicle was accurate and representative of the market value in the local market area.	1

Citation	Description of Allegation	RIC Number of Alleged Violations
CIC §790.03(h)(1)	The Company misrepresented to claimants pertinent facts or insurance policy provisions relating to any coverages at issue.	1
CIC §1874.6 *[CIC §790.03(h)(3)]	The Company failed to report an automobile theft and salvage total loss to the National Automobile Theft Bureau.	1
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.	1
Total Number of Citations		23

***DESCRIPTORS 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)(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 VIOLATIONS BY LINE OF BUSINESS

COMMERCIAL AUTOMOBILE 2013 Written Premium: \$1,747,053	NUMBER OF ALLEGED VIOLATIONS
AMOUNT OF RECOVERIES \$1,330.00	
CCR §2695.7(p) [CIC §790.03(h)(3)]	4
CCR §2695.8(b)(4) [CIC §790.03(h)(3)]	3
CCR §2695.7(d) [CIC §790.03(h)(3)]	2
CCR §2695.8(b)(1) [CIC §790.03(h)(5)]	2
CIC §1871.3(a) [CIC §790.03(h)(3)]	2
CCR §2695.3(a) [CIC §790.03(h)(3)]	1
CCR §2695.4(a) [CIC §790.03(h)(3)]	1
CCR §2695.(d) [CIC §790.03(h)(3)]	1
CCR §2695.5(e)(2) [CIC §790.03(h)(3)]	1
CIC §790.03(h)(1)	1
CIC §1874.6 [CIC §790.03(h)(3)]	1
SUBTOTAL	19

COMMERCIAL MULTI-PERIL 2013 Written Premium: \$4,287,052	NUMBER OF ALLEGED VIOLATIONS
AMOUNT OF RECOVERIES \$0	
CCR §2695.9(f) [CIC §790.03(h)(3)]	4
SUBTOTAL	4

TOTAL	23
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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 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 provided training to ensure proper documentation of total loss settlements to include the delineation of tax, fees and ACV methodology for all jurisdictions, and stated that it has also reiterated, for all jurisdictions, the necessity for thorough, prompt investigations to include the pursuit of subrogation on behalf of the Company's insureds when appropriate.

Money recovered within the scope of this report was \$1,000.00 as described in section number 2 below. Following the findings of the examination, a closed claims survey as described in section 3 below was conducted by the Company resulting in additional payments of \$330.00. As a result of the examination, the total amount of money returned to claimants within the scope of this report was \$1330.00.

COMMERCIAL AUTO

1. **In four instances, the Company failed to provide written notification to a first party claimant of its decision to discontinue pursuit of subrogation.** 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 acknowledges the findings and agrees that a letter explaining the intent to discontinue pursuit of subrogation was not sent in these instances. The Company states that these are isolated incidences and conducted training with its staff on March 27, 2015 with emphasis on this regulation.

2. **In two instances, the Company failed to conduct and diligently pursue a thorough, fair and objective investigation.** In one instance, the claim was closed prior to making contact with the claimant to rule out all liability exposure. In another instance, the Company did not pursue subrogation for potential recovery of the insured's out of pocket expenses. 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: The Company acknowledges the findings and states that it is their policy and procedure to contact the claimant on claims involving potential liability exposure. Similarly, it is their procedure to pursue subrogation to recover an insured's out of pocket expenses. In the latter instance, as a result of the examination a subrogation demand letter was sent to the at-fault driver and his carrier on February 6, 2015 in the attempt to recover the insured's out of pocket expenses. Payment was received from the at-fault carrier on April 8, 2015 and the insured was reimbursed their \$1000.00 deductible on April 18, 2015. The Company states that these are isolated incidences and conducted training with its claims staff on March 27, 2015 with emphasis on this regulation.

3. **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.** In one instance, the transfer fee was not paid. In another instance, all one-time fees and taxes were not paid. 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 that it failed to document/delineate the line items of the total loss settlements and could not provide verification of the specific amounts. DMV fees were paid in every instance, but the break-out of the fees was not provided. As a result of the examination, the Company conducted a manual claims review of total loss claims over a three-year period from January 1, 2012 to December 31, 2014 (including the examination period), and issued unpaid fees totaling \$330.00. In addition, the Company conducted training with its claims staff on March 27, 2015 with emphasis on this regulation.

4. **In two 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 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 the findings and agrees that a letter itemizing all components of the total loss settlement was not sent. As a result of the examination, the Company devised a letter which delineates all taxes, DMV fees and transfer fees in the total loss settlement. The Company implemented the letter on March 27, 2015.

5. **In two instances, the Company failed to secure a theft affidavit from the insured prior to the settlement of the claim.** The Department alleges this act is in violation of CIC §1871.3(a) and is an unfair practice under CIC §790.03(h)(3).

Summary of the Company's Response: The Company acknowledges the findings and states that a theft affidavit was not secured from the insured prior to settlement of a total theft claim in these instances. These are isolated incidences and the Company conducted training with its claims staff on March 27, 2015 with emphasis on this regulation.

6. **In one instance, 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.** In this instance, a copy of the tow bill was not maintained in the claim file. The Department alleges this act is in violation of CCR §2695.3(a) and is an unfair practice under CIC §790.03(h)(3).

Summary of the Company's Response: The Company acknowledges the finding and agrees that a copy of the tow bill was not in the claim file. This is an isolated incident and the Company conducted training with its claims staff on March 27, 2015 with emphasis on file documentation.

7. **In one instance, the Company failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy.** The Department alleges this act is in violation of CCR §2695.4(a) and is an unfair practice under CIC §790.03(h)(1).

Summary of the Company's Response: The Company acknowledges the finding and agrees that there is no documentation of benefit disclosure to the insured in the claim file. This is an isolated incident and the Company conducted training with its claims staff on March 27, 2015 with emphasis on file documentation.

8. **In one instance, the Company's claims agent failed to immediately transmit notice of claim to the insurer.** The Department alleges this act is in violation of CCR §2695.5(d) and is an unfair practice under CIC §790.03(h)(3).

Summary of the Company's Response: The Company acknowledges the finding and agrees that there is no documentation in the claim file explaining why the agent reported the claim on 9/10/13 for a loss that occurred almost one year earlier on 9/25/12. This is an isolated incident and the Company conduct training with its claims staff on March 27, 2015 with emphasis on file documentation.

9. **In one instance, the Company failed to provide necessary forms, instructions, and reasonable assistance within 15 calendar days.** In this instance, the Company did not provide assistance to the insured in complying with CVC §16000.(a), filing an SR-1A to report injury and property damage over \$750.00. The Department alleges this act is in violation of CCR §2695.5(e)(2) and is an unfair practice under CIC §790.03(h)(3).

Summary of the Company's Response: The Company acknowledges the finding and agrees that necessary forms were not provided in this instance. This is an isolated incident and the Company conducted training with its claims staff on March 27, 2015 with emphasis on this regulation.

10. **In one instance, the Company failed to take reasonable steps to verify that the determination of the cost of a comparable vehicle was accurate and representative of the market value in the local market area.** 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 the finding and agrees that reasonable steps were not taken to determine the cost of a comparable vehicle in the settlement of a total theft claim. The adjuster used the Kelly Blue Book value only in this case, which does not provide a representative market value in the local market area. This is an isolated incident and the Company conducted training with its claims staff on March 27, 2015 with emphasis on this regulation.

11. **In one instance, the Company misrepresented to claimants pertinent facts or insurance policy provisions relating to coverages at issue.** The insured advised the Company that he had incurred a tow bill of \$800.00, which was not paid. The insured was incorrectly advised that the policy limits the towing coverage to \$75.00 which discouraged filing of the claim. 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 as a result of the examination contacted the insured to provide a tow bill for payment. The insured confirmed that they are not presenting a claim against their insurance. The Company explained the applicable coverages and deductibles and the insured maintained their position that they do not want anything paid on the claim. This is an isolated incident and the Company conducted training with its claims staff on March 27, 2015 with emphasis on this regulation.

12. **In one instance, the Company failed to report an automobile theft and salvage total loss to the National Automobile Theft Bureau.** The Department alleges this act is in violation of CIC §1874.6 and is an unfair practice under CIC §790.03(h)(3).

Summary of the Company's Response: The Company acknowledges the finding and agrees that a theft and salvage total loss was not reported to the National Automobile Theft Bureau (NATB). This is an isolated incident and the Company conducted training with its claims staff on March 27, 2015 with emphasis on this insurance code.

COMMERCIAL MULTI-PERIL

13. **In three instances, the Company failed to fully explain the basis for any adjustment to the claimant in writing.** In each instance, the structure estimate did not

include information regarding the age, condition and useful life of the property. 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: The Company acknowledges the finding and as a result of the examination, the adjuster has been reminded to include such information in more written detail in the future. On 2/17/15, a revised estimate was provided to the Department with an itemized listing of the depreciation taken which includes the age, useful life and condition. The Company conducted training on March 27, 2015 with its claims staff on the use of the revised estimate.

14. **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 Company improperly applied betterment to drywall and insulation. 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: The Company acknowledges the finding and states that a lack of documentation was the problem with regard to application of depreciation on a commercial structure. This is an isolated incident and the Company conducted training with its claims staff on March 27, 2015 with emphasis on this regulation.