

**[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 HANDLING, RATING, AND UNDERWRITING PRACTICES OF**

**DIAMOND STATE INSURANCE COMPANY
NAIC # 42048 CDI # 4451-1**

AS OF MARCH 31, 2014

ADOPTED OCTOBER 22, 2015

STATE OF CALIFORNIA



**CALIFORNIA DEPARTMENT OF INSURANCE
MARKET CONDUCT DIVISION**

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

Market Conduct Division
300 Capitol Mall
Sacramento, CA 95814



October 22, 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 the California Insurance Code Part 2, Chapter 1, Article 4, Sections 730, 733, 736, and Article 6.5, Section 790.04; Chapter 9, Article 6, Sections 1857.2, 1857.3 and 1857.4, and California Code of Regulations Title 10, Chapter 5, Subchapter 7.5, Section 2695.3(a), a limited examination was made of the claims handling, rating, and underwriting practices and procedures in California of:

Diamond State Insurance Company
NAIC # 42048
Group NAIC # 0920

Hereinafter, the Company listed above also will be referred to as Diamond or the Company. The California Department of Insurance will be referred to as the Department.

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

This limited desk examination covered the claims handling, rating, and underwriting practices of the aforementioned Company's Commercial Auto and Inland Marine lines of business during the period from April 1, 2013 through March 31, 2014. The limited 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.

This report pertains to Section 790.03 and Title 10, California Code of Regulations, Section 2695.0 et seq. A separate report pertains to laws other than Section 790.03 and Title 10, California Code of Regulations, Section 2695.0 et seq.

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 identified violations result in payments by the Company to policyholders or claimants, those amounts paid are identified as recoveries in this report. 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 specified guidelines, procedures, and forms adopted by the Company for use in California.

2. 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 from April 1, 2013 through March 31, 2014; and a review of reports on the previous CDI market conduct examination of this Company.

This limited examination was conducted at the offices of the California Department of Insurance in San Francisco, California.

EXECUTIVE SUMMARY

This desk examination was limited in scope to market analysis information, including California consumer complaint information, to national enforcement activity and to information provided by the Company in response to the Department's data request. There was no review of underwriting or claims files during this examination.

The findings resulting in alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695.0 et seq. that were identified in the course of the examination include failure to provide a certificate signed by a principal of the Company certifying that required training was completed, and the failure to make reference to the Claims Services Bureau on the Company's claim denial letters. Details of the findings are provided in the Summary of Examination Results section of this report.

Diamond State Insurance Company reported \$2,963,359 in written premiums on Commercial Auto insurance coverage and \$2,715,501 in written premiums on Inland Marine insurance coverage in California during 2012. The Company closed 71 Commercial Auto claims and 447 Inland Marine claims during 2012.

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

The results of the market analysis review from April 1, 2013 through March 31, 2014, did not reveal any actions of within the scope of this report.

Within the scope of this report, the Company was not the subject of any California consumer complaints and inquires closed from May 1, 2013 to April 30, 2014, in regard to the lines of business reviewed in this examination.

The previous examination was completed by the Field Claims Bureau and Bureau and reviewed the period from October 1, 2005, through September 30, 2006. There was no specific area of concern identified during the previous examination that falls within the scope of this examination.

The Company has not been the subject of any enforcement actions taken by the Department.

DETAILS OF THE CURRENT EXAMINATION

The following tables summarize the Company’s responses, within the scope of this report, to the Department’s data request and the alleged violations under Section 790.03 and title 10, California Code of Regulations, Section 2695.0 et seq. that resulted from the review of that data. All “NO” answers in the Areas of Review table are addressed in the Summary of Examination Results section of this report. A summary of each of the laws cited due to a “NO” answer is provided in the Cited Statutes and Regulations table.

COMMERCIAL AUTO AREAS OF REVIEW		
SPECIFIC ISSUE REVIEWED	INDICATION OF COMPLIANCE (YES/NO)	SUMMARY OF RESULTS ITEM NUMBER
Certification of claims training by a principal – CCR §2695.6(b) [CIC §790.03(h)(3)]	NO	1
Copy of written standards for claims – CCR §2695.6(a) [CIC §790.03(h)(3)]	YES	--
Compliance with Special Investigative Unit Regulations – CIC §1875.20 and CCR §§2698.30-2698.43 [CIC §790.03(h)(3)]	YES	--
Compliance of letters and forms – CCR §2695.7(b)(3) CIC §880 [CIC §790.03(h)(3)]	YES	--
Compliance with requirement to disclose benefits – CCR §2695.4(a) [CIC §790.03(h)(1)]	YES	--
Compliance with requirements for acknowledgement of claims – CCR §2695.5(e)(1) [CIC §790.03(h)(2)]	YES	--
Compliance with requirements for reasonable assistance – CCR §2695.5(e)(2) [CIC §790.03(h)(3)]	YES	--

Compliance with requirements to begin investigation – CCR §2695.5(e)(3) [CIC §790.03(h)(3)]	YES	--
Compliance with requirements to respond to communication – CCR §2695.5(b) [CIC §790.03(h)(2)]	YES	--
Compliance with requirements to utilize a HIPAA compliant medical authorization form – CIC §791.06 [CIC §790.03(h)(3)]	YES	--
Compliance with requirements to issue all denials in writing – CCR §2695.7(b)(1) [CIC §790.03(h)(13)]	YES	--
Compliance with requirements to reference the California Department of Insurance in denials – CCR §2695.7(b)(3) [CIC §790.03(h)(3)]	NO	2
Compliance with requirements to accept or deny in 40 days – CCR §2695.7(b) [CIC §790.03(h)(3) and/or CIC §790.03(h)(4)]	YES	--
Compliance with requirements to send additional time letters every 30 days – CCR §2695.7(c)(1) [CIC §790.03(h)(3)]	YES	--
Compliance with requirements to tender payment within 30 days – CCR §2695.7(h) [CIC §790.03(h)(5)]	YES	--
Compliance with requirements to provide the insured with “The Auto Body Repair Consumer Bill of Rights” – CCR §2695.85(a) [CIC §790.03(h)(3)]	YES	--
Compliance with requirements not to require repairs from a specific shop – CCR §2695.8(e)(1) [CIC §790.03(h)(3)]	YES	--
Compliance with requirements to supply claimants with repair estimates – CCR §2695.8(f) [CIC §790.03(h)(3)]	YES	--
Compliance with requirements to warrant non-original equipment crash parts – CCR §2695.8(g)(3) [CIC §790.03(h)(3)]	YES	--
Compliance with requirements to explain in writing any adjustments due to depreciation – CCR §2695.8(i) [CIC §790.03(h)(3)]	YES	--
Compliance with requirements not to cap or limit amount paid for paint and material – CIC §758.6 [CIC §790.03(h)(5)]	YES	--
Compliance with requirements to explain clearly in the policy that labor may be depreciated – CCR §2695.8(j) [CIC §790.03(h)(3)]	*N/A	--
Compliance with requirements to issue payment of agreed repair amount within 10 days – CIC §560 [CIC §790.03(h)(5)]	YES	--

*N/A – Not applicable; the Company indicates that this law is not relevant to its particular rating, underwriting or claims practices.

INLAND MARINE AREAS OF REVIEW		
SPECIFIC ISSUE REVIEWED	INDICATION OF COMPLIANCE (YES/NO)	SUMMARY OF RESULTS ITEM NUMBER
Certification of claims training by a principal – CCR §2695.6(b) [CIC §790.03(h)(3)]	NO	3
Copy of written standards for claims – CCR §2695.6(a) [CIC §790.03(h)(3)]	YES	--
Compliance with the California Insurance Code (CIC) and California Code of Regulations (CCR), Title 10. Specifically, CIC §790.03(h), and applicable CCR §§2695.1 through 2695.14.	YES	--
Compliance with Special Investigative Unit Regulations – CIC §1875.20 and CCR §§2698.30-2698.43 [CIC §790.03(h)(3)]	YES	--
Compliance of letters and forms – CCR §2695.7(b)(3) CIC §880 [CIC §790.03(h)(3)]	YES	--
Compliance with requirements for acknowledgement of claims – CCR §2695.5(e)(1) [CIC §790.03(h)(2)]	YES	--
Compliance with requirements for reasonable assistance – CCR §2695.5(e)(2) [CIC §790.03(h)(3)]	YES	--
Compliance with requirements to begin investigation – CCR §2695.5(e)(3) [CIC §790.03(h)(3)]	YES	--
Compliance with requirement to disclose benefits – CCR §2695.4(a) [CIC §790.03(h)(1)]	YES	--
Compliance with requirements to respond to communication – CCR §2695.5(b) [CIC §790.03(h)(2)]	YES	--
Compliance with requirements to accept or deny in 40 days – CCR §2695.7(b) [CIC §790.03(h)(3) and/or CIC §790.03(h)(4)]	YES	--
Compliance with requirements to send additional time letters every 30 days – CCR §2695.7(c)(1) [CIC §790.03(h)(3)]	YES	--
Compliance with no requirement to use a specific vendor— CCR §2695.9(b) [CIC §790.03(h)(3)]	YES	--

Compliance with requirement to suggest a specific vendor only upon request by insured— CCR §2695.9(c)(1) [CIC §790.03(h)(3)]	YES	--
Compliance with requirement to inform insured in writing of right to select vendor— CCR §2695.9(c)(2) [CIC §790.03(h)(3)]	*N/A	--
Compliance with requirement to supply insured with a copy of the written scope and/or estimate prepared by Company— CCR §2695.9(d) [CIC §790.03(h)(3)]	YES	--
Compliance with requirements to include sales tax – CCR §2695.7(g) [CIC §790.03(h)(5)]	YES	--
Compliance with requirement not to apply betterment to the expense of labor— CCR §2695.9(f)(1) [CIC §790.03(h)(5)]	YES	--
Compliance with requirement to note adjustments in the claim file that are discernable, measurable, itemized, and specified as to dollar amount— CCR §2695.9(f) [CIC §790.03(h)(3)]	YES	--
Compliance with requirement not to apply betterment to property not normally subject to repair or replacement— CCR §2695.9(f) [CIC §790.03(h)(5)]	YES	--
Compliance with requirements to tender payment within 30 days – CCR §2695.7(h) [CIC §790.03(h)(5)]	YES	--
Compliance with requirements to issue all denials in writing – CCR §2695.7(b)(1) [CIC §790.03(h)(13)]	YES	--
Compliance with requirements to reference the California Department of Insurance in denials – CCR §2695.7(b)(3) [CIC §790.03(h)(3)]	YES	--
Compliance with required fraud disclosure language— CIC §1879.2(a) [CIC §790.03(h)(3)]	NO	4

*N/A – Not applicable; the Company indicates that this law is not relevant to its particular rating, underwriting or claims practices.

CITED STATUTES AND REGULATIONS	
Citation	Description
CCR §2695.6(b)(2) *[CIC §790.03(h)(3)]	Where the licensee is an entity, the annual written certification shall be executed, under penalty of perjury, by a principal of the entity
CCR §2695.6(b)(5) *[CIC §790.03(h)(3)]	The annual certification required by this subsection shall be completed on or before September 1 of each calendar year.
CCR §2695.7(b)(3) *[CIC §790.03(h)(3)]	Written notification pursuant to this subsection shall include a statement that, if the claimant believes all or part of the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance, and shall include the address and telephone number of the unit of the Department which reviews claims practices.
CIC § 1879.2(a) *[CIC §790.03(h)(3)]	Any insurer that furnishes a form upon which notice to the insurer of a claim under any contract of insurance is given shall include the disclosure language prescribed in this section.

***DESCRIPTORS 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 its insurance policies.

SUMMARY OF EXAMINATION RESULTS

The following is a brief summary of the practices, within the scope of this report, that were alleged to be non-compliant during the course of this limited examination. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695.0 et seq.

In response to each of the Department's allegations of non-compliance, the Company was 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 and maintained.

The Company indicates that these practices are not applicable in other jurisdictions.

Within the scope of this report, there were no claims recoveries or return premium as a result of the issues described in this report.

COMMERCIAL AUTO

1. The examination revealed that the Company is not in compliance with the California Fair Claims Settlement Practices Regulations as specified in the Code of Regulations as the certificate provided for review was completed on December 3, 2013 and not by the September 1st deadline required.
CCR § 2695.6(b)(5) and CIC § 790.03(h)(3)

Summary of Company Response: The Company advised that this was a onetime occurrence in 2013. Corrective action was implemented on May 13, 2015 to ensure compliance moving forward.

2. The examination revealed that the Company's denial letter did not include a reference to the "Claims Services Bureau". Rather it referred to the Consumer Communications Bureau.
CCR § 2695.7(b)(3) and CIC § 790.03(h)(3)

Summary of Company Response: The Company advised that the letters were corrected to include the reference to the Claims Services Bureau and the revised language was implemented on December 4, 2014.

INLAND MARINE

3. The examination revealed that the Company was not in compliance with the California Fair Claims Settlement Practices Regulations as specified in the California Code of Regulations as the certificate provided was not signed under penalty of perjury and failed to indicate that the certification was completed by the September 1st deadline as required.
CCR §§ 2695.6(b)(2) and 2695.6(b)(5), and CIC § 790.03(h)(3)

Summary of Company Response: The Company advised that corrective action has already been implemented. The Company's revised certification form was provided to its Third Party Administrator and will be signed by senior management of Diamond's Claims Department for all training beginning in 2015 and thereafter. The senior management of Diamond's Claims Department will now sign the certificate annually by the September 1st deadline to ensure compliance with California law.

4. The examination revealed the Company's Inland Marine "General Release Form" is not in compliance as the fraud language does not mirror the language in the Insurance Code.
CIC §§ 1879.2(a) and 790.03(h)(3)

Summary of Company Response: The Company advised that corrective action has already been taken and that the Company is now in compliance with the insurance code. The Company has provided a copy of the revised fraud language to their Third Party Administrator. The Company further advised that in addition to the General Release Form all other release forms which contain fraud language have been corrected. The corrective action was implemented May 13, 2015.