

PUBLIC REPORT OF THE MARKET CONDUCT EXAMINATION

OF THE CLAIMS PRACTICES OF THE

21st CENTURY INSURANCE COMPANY
NAIC # 12963 CDI # 1953-9

21st CENTURY CASUALTY COMPANY
NAIC # 36404 CDI # 3134-4

AS OF SEPTEMBER 30, 2003

STATE OF CALIFORNIA



DEPARTMENT OF INSURANCE
MARKET CONDUCT DIVISION
FIELD CLAIMS BUREAU

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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



September 10, 2004

The Honorable John Garamendi
Insurance Commissioner
State of California
45 Fremont Street
San Francisco, California 94105

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 practices and procedures in California of:

21st Century Insurance Company

NAIC #12963

21st Century Casualty Company

NAIC #36404

Hereinafter referred to as the Companies.

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

SCOPE OF THE RE-EXAMINATION

The re-examination, in follow up to a Market Conduct examination as of June 30, 1999, covered the claims handling practices of the aforementioned Companies during the period October 1, 2002 through September 30, 2003. The re-examination was made to discover, in general, if these and other operating procedures of the Companies conform with the contractual obligations in the policy forms, to provisions of the California Insurance Code (CIC), the California Code of Regulations (CCR), the California Vehicle Code (CVC) and case law. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al. Any alleged violations of other relevant laws which may result from this examination will be included in a separate report which will remain confidential subject to the provisions of CIC Section 735.5.

To accomplish the foregoing, the re-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 fair claims settlement practices.
2. A review of the application of such guidelines, procedures, and forms, by means of an examination of claims files and related records.
3. A review of consumer complaints received by the California Department of Insurance (CDI) in the most recent year prior to the start of the examination.

The re-examination was conducted at the Company's claims office in Brea, California.

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 only a summary of pertinent information about the lines of business examined and details of the non-compliant or problematic activities or results that were discovered during the course of the examination along with the insurer's proposals for correcting the deficiencies. When a violation is discovered that results in an underpayment to the claimant, the insurer corrects the underpayment and the additional amount paid is identified as a recovery in this report. All unacceptable or non-compliant activities may not have been discovered, however, and failure to identify, comment on or criticize activities does not constitute acceptance of such activities.

Any alleged violations identified in this report and any criticisms of practices have not undergone a formal administrative or judicial process.

CLAIM SAMPLE REVIEWED AND OVERVIEW OF FINDINGS

The examiners reviewed files drawn from the category of Closed Claims for the period October 1, 2002 through September 30, 2003, commonly referred to as the “review period”. The examiners reviewed 407 21st Century Insurance Company claims files and 146 21st Century Casualty Company claim files. The examiners cited 57 claims handling violations of the Fair Claims Settlement Practices Regulations and/or California Insurance Code Section 790.03 within the scope of this report. Further details with respect to the files reviewed and alleged violations are provided in the following tables and summaries.

21st Century Insurance Company			
CATEGORY	CLAIMS FOR REVIEW PERIOD	REVIEWED	CITATIONS
Collision	117,764	71	5
Comprehensive	43,667	66	1
Property Damage	81,400	68	0
Medical Payments	22,199	68	0
Uninsured Motorist Property Damage	1,780	66	3
Total Losses	17,809	68	32
TOTALS	284,619	407	41

21st Century Casualty Company			
CATEGORY	CLAIMS FOR REVIEW PERIOD	REVIEWED	CITATIONS
Collision	184	47	1
Comprehensive	42	27	4
Property Damage	239	53	5
Total Losses	28	19	6
TOTALS	493	146	16

TABLE OF TOTAL CITATIONS			
Citation	Description	21st Century Insurance Company	21st Century Casualty Company
CCR §2695.8(b)(1)(c)	The Company failed to document the determination of value. Any deductions from value must be discernible, measurable, itemized, and specified as well as be appropriate in dollar amount. The Baseline adjustment applied to the comparables was not properly documented.	39	11
CCR §2695.7(c)(1)	The Company failed to provide written notice of the need for additional time every 30 calendar days.	2	1
CCR §2695.7(b)	The Company failed upon receiving proof of claim, to accept or deny the claim within 40 calendar days.	0	3
CCR §2695.7(h)	Upon acceptance of the claim the Company failed to tender payment within 30 calendar days.	0	1
Total Citations		41	16

SUMMARY OF CRITICISMS, INSURER COMPLIANCE ACTIONS AND TOTAL RECOVERIES

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. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al. 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. Regardless of the remedial actions taken or proposed by the Company, it is the Company's obligation to ensure that compliance is achieved. Money recovered within the scope of this report was \$ 5,000.00.

1. The Companies failed to document the determination of value. It is the Department's position that in 50 instances the total loss valuation reports utilized by the Companies failed to adequately document the deductions from value that take place in the vendor's valuation process. The Department alleges these acts are in violation of CCR § 2695.8(b)(1)(c).

Summary of Companies' Response: The Companies disagree with the Department's position. The Companies' representatives provided the following explanation: "The regulation provides that the evaluation be discernable, measurable, itemized and specified, as well as appropriate in dollar amount. The regulation does not specify a procedure or valuation methodology that must be used or the specific documentation of deductions that must be contained in the file. The Companies, along with many other insurers in the California automobile insurance market, utilize the services of an outside vendor to determine the value of total loss vehicles and to produce Valuation Reports. As the valuation calculation is separately stated and explained in the Valuation Report, the Companies believe there is no basis for the Department to conclude that the documentation provided by the vendor is not adequate or in violation of CCR § 2695.8 (b)(1)(c)." The Companies also make note that, as a result of the negotiations and litigation between the Department and insurers that use these vendors, the Department has developed revised regulations which specifically address this issue. The Companies have agreed to comply with these newly issued revised regulations.

Resolution: As indicated in the Companies' response, this matter has been addressed through revised regulations which more specifically address the issue in dispute. The Companies' compliance with the revised regulations will resolve this issue.

2. The Companies failed to provide written notice of the need for additional time every 30 calendar days. In three instances, the Companies failed to provide written notice of the need for additional time every 30 calendar days. The Department alleges these acts are in violation of CCR §2695.7(c)(1).

Summary of Companies' Response: The Companies have acknowledged that in the three instances cited there was a failure to provide written notice of the need for additional time every 30 calendar days as required by CCR §2695.7(c)(1). The Companies will remind claims handling personnel through training of this requirement.

3. The Companies failed to accept or deny the claim within 40 calendar days. In three instances, the Companies 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).

Summary of Companies' Response: The Companies have acknowledged that in the three instances cited there was a failure upon receiving proof of claim, to accept or deny the claim within 40 calendar days. The Companies state "Training and compliance with the CDI's regulations is an activity conducted, promoted and emphasized to the claims staff. These files will be reviewed and discussed with the claims offices that adjusted the claims and a reminder about this company's guidelines relating to compliance with the regulations will be emphasized."

4. Upon acceptance of the claim the Companies failed to tender payment within 30 calendar days. In one instance, upon acceptance of the claim the Company failed to tender payment within 30 calendar days. The payment was made on day 39. The Department alleges this act is in violation of CCR §2695.7(h).

Summary of Companies' Response: The Companies have acknowledged that in the instance cited payment of the claim was not made within 30 calendar days as required by CCR §2695.7(h). The Company views this as an oversight and has conducted training with its staff on this subject.