

PUBLIC REPORT OF EXAMINATION OF THE CLAIMS

PRACTICES OF THE

**DEERBROOK INSURANCE COMPANY**  
**NAIC # 37907 CDI # 2499-2**

AS OF APRIL 30, 2001

**STATE OF CALIFORNIA**



**DEPARTMENT OF INSURANCE**

**FIELD CLAIMS BUREAU**

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**CALIFORNIA DEPARTMENT OF INSURANCE**

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



February 1, 2002

The Honorable Harry W. Low  
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:

**Deerbrook Insurance Company**

**NAIC #37907**

Hereinafter referred to as DIC or as the Company.

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

## **SCOPE OF THE EXAMINATION**

The examination covered the claims handling practices of the aforementioned Company during the period May 1, 2000 through April 30, 2001. The examination was made to discover, in general, if these and other operating procedures of the Company conform with the contractual obligations in the policy forms, to provisions of the California Insurance Code (CIC), the California Code of Regulations (CCR) and case law. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al.

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 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 examination was primarily conducted at the Company's claims office in Orange, 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.

The 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 May 1, 2000 through April 30, 2001, commonly referred to as the “review period”. The examiners reviewed 323 Deerbrook Insurance Company Personal Auto (PA) claim files. The examiners cited 32 claims handling violations of the Fair Claims Settlement Practices Regulations or California Insurance Code Section 790.03 within the scope of this report.

<b>Deerbrook Insurance Company</b>			
<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
PA Uninsured Motorist Bodily Injury	226	41	0
PA Uninsured Motorist Property Damage	51	25	8
PA Collision	5148	67	10
PA Comprehensive	2179	66	3
PA Property Damage	5158	65	11
PA Bodily Injury	1609	59	0
<b>TOTALS</b>	14371	323	32

<b>TABLE OF TOTAL CITATIONS</b>		
<b>Citation</b>	<b>Description</b>	<b>Deerbrook Insurance Company</b>
CCR §2695.7(c)(1)	The Company failed to provide written notice of the need for additional time every thirty-calendar days.	9
CCR §2695.8(b)(1)	The Company failed to include, in the settlement, all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the comparable automobile.	6
CCR §2695.7(h)	Upon acceptance of the claim the Company failed to tender payment within thirty calendar days.	4
CCR §2695.7(b)	The Company failed to accept or deny the claim within forty calendar days.	3
CIC §790.03(h)(5)	The Company failed to effectuate prompt, fair, and equitable settlement of claim.	3
CCR §2695.8(k)	The Company failed to document the basis of betterment, depreciation, or salvage. The basis for any adjustment shall be fully explained to the claimant in writing.	2
CCR §2695.8(f)	The Company failed to supply the claimant with a copy of the estimate upon which the settlement is based.	1
CCR §2695.8(i)	The Company failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation.	1
CCR §2695.7(b)(1)	The Company failed to provide written basis for the denial of the claim.	1
CCR §2695.7(b)(3)	The Company failed to advise the claimant that he or she may have the claim denial reviewed by the California Department of Insurance.	1
CIC §790.03(h)(3)	The Company failed to adhere to standard of prompt investigation and processing of claim.	1
<b>Total Citations</b>		32

## 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. 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. There were five cases where money was recovered for claimants within the scope of this report. The total money recovered was \$1,465.20.

**1. The Company failed to provide written notice of the need for additional time every thirty-calendar days.** In nine instances, the Company failed to provide written notice of the need for additional time every thirty-calendar days. The Department alleges these acts are in violation of CCR § 2695.7(c)(1).

**Company Response:** The Company has acknowledged that they failed to provide written notice of the need for additional time every thirty-calendar days in these instances. It is the Company's procedure to maintain compliance with the Fair Claim Practice Regulations. Compliance with these procedures are now monitored monthly. Annual training of the Fair Claim Practice Regulations will be completed by September 1 of each year.

**2. The Company failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile or the Company failed to include, in the settlement, all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the comparable automobile.** In six instances, the Company either failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile or the Company failed to include in the settlement, all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the comparable automobile. The Department alleges these acts are in violation of CCR § 2695.8(b)(1).

**Company Response:** The Company has acknowledged that they failed to send an itemized explanation of the total loss offer to the insured along with a copy of the total loss evaluation in **four** instances. The Company has also acknowledged that they failed to pay all applicable taxes, license fees and other fees on first party claims as required by this regulation in **two** instances. They have agreed to send the itemized explanation of the total loss offer in writing to the insured, and have compensated the insureds through payment of the appropriate fees due.

**3. Upon acceptance of the claim the Company failed to tender payment within thirty-calendar days.** In four instances, upon acceptance of the claim the Company failed to tender payment within thirty-calendar days. The Department alleges these acts are in violation of CCR § 2695.7(h).

**Company Response:** The Company has acknowledged that they failed to tender payment within thirty-calendar days in these instances. In one instance, the field technician assigned to review vehicle repair estimates caused the delay. It is the Company procedure to maintain compliance with the Fair Claim Practice Regulations. Compliance with these procedures will be monitored monthly. Annual training of the Fair Claim Practice Regulations will be completed by September 1 of each year.

**4. The Company failed to accept or deny the claim within forty-calendar days.** In three instances, the Company failed, upon receiving proof of claim, to accept or deny the claim within forty-calendar days. The Department alleges these acts are in violation of CCR § 2695.7(b).

**Company Response:** The Company has acknowledged that they failed to accept or deny the claim within forty-calendar days in these instances. It is the Company procedure to maintain compliance with the Fair Claim Practice Regulations. Compliance with these procedures will be monitored monthly. Annual training of the Fair Claim Practice Regulations will be completed by September 1 of each year.

**5. The Company failed to effectuate prompt, fair and equitable settlement of claim.** In three instances, the Company failed to effectuate prompt, fair and equitable settlement of claim. The Department alleges these acts are in violation of CIC § 790.03(h)(5).

**Company Response:** The Company has acknowledged that they failed to pay the necessary fees to effectuate prompt, fair and equitable settlement of claim in these instances. They admit that it is standard Company procedure to pay all fees associated with the transfer of the totaled vehicle on third party claims. The Company has compensated the claimants by paying the Department of Motor Vehicle salvage retention fee and Vehicle Transfer fee.

**6. The Company failed to document the basis of betterment, depreciation, or salvage. The basis for any adjustment shall be fully explained to the claimant in writing.** In two instances, the Company failed to document the basis of betterment, depreciation, or salvage. The basis for any adjustment shall be fully explained to the claimant in writing. The Department alleges these acts are in violation of CCR § 2695.8(k).

**Company Response:** The Company acknowledges that they failed to document the basis of betterment, depreciation, or salvage in these instances. The Company has a procedure in place to maintain compliance with the Fair Claim Practice Regulations by documenting in the diary notes when providing the claimant with a copy of the settlement figures including an explanation for any betterment, depreciation, or salvage deductions. Compliance with this procedure will be monitored monthly. Annual training of the Fair Claim Practice Regulations will be completed by September 1 of each year.

**7. The Company failed to supply the claimant with a copy of the estimate upon which the settlement is based.** In one instance, the Company failed to supply the claimant with a copy of the estimate upon which the settlement is based. The Department alleges this act is in violation of CCR § 2695.8(f).

**Company Response:** The Company has acknowledged that they failed to supply the claimant with a copy of the vehicle repair estimate in this instance. It is the Company procedure to maintain compliance with the Fair Claim Practice Regulations. In this case, the independent appraiser was instructed to provide a copy of the estimate to the vehicle owner, but failed to do so. The Company will continue to instruct the independent appraiser to provide the claimant with a copy of the estimate as required by the Fair Claim Practice Regulations.

**8. The Company failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation.** In one instance, the Company failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation of the claim. The Department alleges this act is in violation of CCR § 2695.8(i).

**Company Response:** The Company has acknowledged that they failed to provide written notification to a first party claimant as to whether they intended to pursue subrogation of the claim in this instance. It is the Company procedure to maintain compliance with the Fair Claim Practice Regulations. Compliance with this procedure will be monitored monthly. Annual training of the Fair Claim Practice Regulations will be completed by September 1 of each year.

**9. The Company failed to provide written basis for the denial of the claim.** In one instance, the Company failed to provide written basis for the denial of the claim. The Department alleges this act is in violation of CCR § 2695.7(b)(1).

**Company Response:** The Company has acknowledged that they failed to provide a written explanation to the claimant carrier in this instance for partially denying their claim. It is the Company procedure to maintain compliance with the Fair Claim Practice Regulations. Compliance with this procedure will be monitored monthly. Annual training of the Fair Claim Practice Regulations will be completed by September 1 of each year.

**10. The Company failed to advise the claimant that he or she may have the claim denial reviewed by the California Department of Insurance.** In one instance, the Company failed to include a statement in their claim denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance. The Department alleges this act is in violation of CCR § 2695.7(b)(3).

**Company Response:** The Company has acknowledged that they failed to include referral to the California Department of Insurance on their partial denial of a claim to the claimant carrier. It is the Company procedure to maintain compliance with the Fair Claim Practice Regulations. Compliance with this procedure will be monitored monthly. Annual training of the Fair Claim Practice Regulations will be completed by September 1 of each year.

**11. The Company failed to adhere to standards for adequate investigation and processing of claims.** In one instance, the Company failed to adhere to standards for adequate investigation and processing of claims. The Department alleges this act is in violation of CIC § 790.03(h)(3).

**Company Response:** The Company has acknowledged a gap in file handling where no activity was documented over a five-month period. It is the Company procedure to maintain compliance with the Fair Claim Practice Regulations and process claims promptly. Compliance with this procedure will be monitored monthly. Annual training of the Fair Claim Practice Regulations will be completed by September 1 of each year.