

PUBLIC REPORT OF THE MARKET CONDUCT EXAMINATION
OF THE CLAIMS PRACTICES OF THE
FINANCIAL PACIFIC INSURANCE COMPANY
NAIC # 31453 CDI # 3132-8

AS OF MAY 31, 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



January 22, 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:

Financial Pacific Insurance Company

NAIC #31453

Hereinafter referred to 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) 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 June 1, 2002 through May 31, 2003. 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), 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.

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 conducted at the Company's offices in Rocklin, 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 June 1, 2002 through May 31, 2003, commonly referred to as the “review period”. The examiners reviewed 190 claims files. The examiners cited 34 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.

Financial Pacific Insurance Company			
CATEGORY	CLAIMS FOR REVIEW PERIOD	REVIEWED	CITATIONS
Commercial Auto Comprehensive	86	15	6
Commercial Auto Collision	314	45	19
Commercial Auto Liability	815	45	5
Commercial Auto Medical Payments	16	5	0
Commercial Auto Uninsured Motorist	8	2	0
Commercial Garage Liability	164	12	0
Commercial Multi-Peril Liability	1237	44	4
Commercial Multi-Peril Property	529	22	0
TOTALS	3169	190	34

TABLE OF TOTAL CITATIONS

Citation	Description	Number
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. DMV fees were not fully paid.	10
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.	7
CCR §2695.7(b)(3)	The Company failed to include a statement in its 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.	3
CCR §2695.7(c)(1)	The Company failed to provide written notice of the need for additional time every thirty calendar days.	3
CCR §2695.7(b)	The Company failed, upon receiving proof of claim, to accept or deny the claim within forty calendar days.	2
CCR §2695.3(b)(2)	The Company failed to record in the file the date the Company received, date(s) the Company processed and date the Company transmitted or mailed every relevant document in the file.	2
CCR §2695.5(e)(3)	The Company failed to begin investigation of the claim within fifteen calendar days.	2
CCR §2695.5(e)(1)	The Company failed to acknowledge notice of claim within fifteen calendar days.	1
CCR §2695.3(a)	The Company's claim file failed to contain all documents, notes, and work papers which pertain to the claim.	1
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(j)	The Company failed to share subrogation recoveries on a proportionate basis with the first party Claimant.	1
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.	1
Total Citations		34

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 \$19,899.46. A self-review of closed total loss claim files within the Collision and Comprehensive categories currently is underway by the Company to identify and reimburse any policyholders that may be entitled to additional benefits due to miscalculation of vehicle registration fees.

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.

In ten instances, 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).

Summary of Company Response: The Company acknowledges these errors and indicates they were due to a good-faith misunderstanding of the regulatory requirement. It had made a practice of pro-rating the entire vehicle registration fee rather than pro-rating the vehicle license fee (VLF fee) portion, only, and paying fixed fees at 100 percent. It also had erred in a number of cases by utilizing an outdated and lower transfer fee in its calculations. Finally, it had depended upon registration information solicited from its policyholders in determination of claim.

The Company has, as a remedial action, revised its procedure and is now utilizing a vendor to provide accurate and timely vehicle registration data upon which to base its claim payments. It also has conducted training of claims personnel to accommodate the new procedure and has performed a self-review of closed claim files to correct any previous errors. The self-review identified \$18,510.46 which was returned to the claimants.

2. The Company failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation.

In seven instances, 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 these acts are in violation of CCR §2695.8(i).

Summary of Company Response: The Company acknowledges these errors and notes that it is its practice to notify first party claimants on the issue of subrogation. It has corrected the individual claims representatives and has conducted additional training of personnel to eliminate future recurrences of this violation.

3. The Company failed to advise the claimant that he or she may have the claim denial reviewed by the California Department of Insurance. In three instances, the Company failed to include a statement in its 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 these acts are in violation of CCR §2695.7(b) (3).

Summary of Company Response: The Company acknowledges these errors and indicates they were isolated failures by claims representatives to follow Company policy. Additional training has been conducted to address the issue.

4. The Company failed to provide written notice of the need for additional time every thirty calendar days. In three 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).

Summary of Company Response: The Company acknowledges these errors and indicates they were isolated failures by claims representatives to follow Company policy. Additional training has been conducted to address the issue.

5. The Company failed to accept or deny the claim within forty calendar days. In two 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).

Summary of Company Response: The Company acknowledges these errors and indicates they were isolated failures by claims representatives to follow Company policy. Additional training has been conducted to address the issue.

6. The Company failed to record claim data in the file. In two instances, the Company failed to record the date the Company received, date(s) the Company processed and date the Company transmitted or mailed every relevant document in the file. The Department alleges these acts are in violation of CCR §2695.3(b) (2).

Summary of Company Response: The Company acknowledges these errors, explaining that incoming mail with the exception of legal documents, checks and automobile titles are routinely date stamped upon receipt. The adjusters in each of the referenced cases failed to follow Company policy by entering in the file log notes the date the Company received the title documents in one case and a subrogation recovery check in the other. The Company views this as an employee oversight and has conducted a training meeting with its staff on this subject.

7. The Company failed to begin investigation of the claim within fifteen calendar days. In two instances, the Company failed to begin investigation of the claim within fifteen calendar days. The Department alleges these acts are in violation of CCR §2695.5(e)(3).

Summary of Company Response: The Company acknowledges these errors and indicates they were isolated failures by claims representatives to follow Company policy. Additional training has been conducted to address the issue.

8. The Company failed to comply with the Fair Claims Regulations Practices. In one instance each, the Company failed to comply with the following Fair Claims Regulations Practices: CCR §2695.5(e)(1), CCR §2695.3(a), CCR §2695.8(f), CCR §2695.8(j) and CCR §2695.8(k).

Summary of Company Response: The Company acknowledges these errors and indicates each was an isolated failure by a claims representative to follow Company policy. Additional training has been conducted to address the issues.