

PUBLIC REPORT OF EXAMINATION OF THE CLAIMS

PRACTICES OF THE

**FIRST AMERICAN PROPERTY AND CASUALTY
INSURANCE COMPANY
NAIC # 37710 CDI # 2332-5**

AS OF APRIL 30, 2001

STATE OF CALIFORNIA



DEPARTMENT OF INSURANCE

FIELD CLAIMS BUREAU

TABLE OF CONTENTS

SALUTATION.....1

SCOPE OF THE EXAMINATION.....2

CLAIMS SAMPLE REVIEWED AND OVERVIEW OF FINDINGS.....3

TABLE OF TOTAL CITATIONS.....4

SUMMARY OF CRITICISMS, INSURER COMPLIANCE ACTIONS
AND TOTAL RECOVERIES..... 5

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



April 22, 2001

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:

First American Property and Casualty Insurance Company

NAIC #37710

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 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 Irvine, 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 May 1, 2000 through April 30, 2001, commonly referred to as the “review period”. The examiners reviewed 74 First American Property and Casualty Insurance Company property/casualty (PC) claim files and four personal auto (PA) claim files. The examiners cited 26 claims handling violations of the Fair Claims Settlement Practices Regulations and/or California Insurance Code Section 790.03 within the scope of this report.

First American Property and Casualty Insurance Company			
CATEGORY	CLAIMS FOR REVIEW PERIOD	REVIEWED	CITATIONS
PA Comprehensive	1	1	0
PA Collision	3	3	0
PC Fire	779	69	26
PC Flood	25	3	0
PC Liability	5	2	0
TOTALS	813	78	26

TABLE OF TOTAL CITATIONS		
Citation	Description	First American Property and Casualty Insurance Co.
CCR §2695.3(a)	Company failed to properly document claim files.	19
CCR §2695.7(b)(3)	Failure to include the claimant's right to a CDI review in denial.	4
CCR §2695.7(b)(1)	Company failed to provide a factual basis for the denial in writing.	1
CCR §2695.4(a)	Company failed to disclose all policy provisions.	1
CIC §790.03(h)(3)	Company failed to adhere to standard of prompt investigation and handling of claim.	1
Total Citations		26

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. There were no recoveries discovered within the scope of this report.

1. The Company failed to properly document claim files. In 19 instances, the Company's files failed to contain all documents, notes and work papers. The Department alleges these acts are in violation of CCR § 2695.3(a).

Company Response: The Company acknowledges that they did not separately document the added material tax as it was incorporated within the unit cost pricing structure. The Company has agreed to show tax separated out below the subtotal line on all estimates written in the future.

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

Company Response: The Company acknowledges that they failed to include the Department of Insurance referral in these instances. They recognize the importance of including this referral on all claims that have been rejected or denied in whole or in part. Since the handling of all claims files have been moved to another location, the new staff and management in place are committed to ensuring that claim denials are handled appropriately in the future.

3. 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 acknowledges that they did not deny in writing the portion of the claim, which was not paid. It is normal Company procedure to provide written basis for the denial of a claim. Since the handling of all claim files have been moved to another location, the new staff and management in place are committed to additional training and ongoing monitoring of files in the future to verify compliance.

4. **The Company failed to disclose all policy provisions.** 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).

Company Response: The Company states that it is normal Company procedure that the adjusters explain coverage including any applicable deductible with the insured. Since the handling of all claim files have been moved to another location, the new staff and management in place are committed to additional training and ongoing monitoring of files in the future to verify compliance.

5. **The Company failed to adhere to standard of prompt investigation and handling of claim.** In one instance, the Company failed to adhere to standard of prompt investigation and handling of claim. The Department alleges this act is in violation of CIC § 790.03(h)(3).

Company Response: The Company acknowledges that the contractor's overhead and profit cost was not included in the settlement. They state that it is standard Company procedure to include these costs in the settlement. Since the handling of all claims files have been moved to another location, the new staff and management are committed to additional training and monitoring of files in the future to verify compliance.