

PUBLIC REPORT OF EXAMINATION OF THE CLAIMS

PRACTICES OF THE

**NORTH AMERICAN SPECIALTY INSURANCE COMPANY  
NAIC # 29874 CDI # 3208-6**

AS OF JUNE 30, 1999

**STATE OF CALIFORNIA**



**DEPARTMENT OF INSURANCE**

**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  
Market Conduct Bureau, 11th Floor  
Ronald Reagan State Office Building  
300 South Spring Street  
Los Angeles, CA 90013



August 21, 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:

**North American Specialty Insurance Company**

**NAIC #29874**

Hereinafter referred to as NAS 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 July 1, 1998 through June 30, 1999. 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 Manchester, New Hampshire.

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 Market Conduct examiners reviewed files drawn from the category of Closed Claims for the period July 1, 1998 through June 30, 1999, commonly referred to as the “review period”. The examiners reviewed 130 North American Specialty Insurance Company general liability (GL), commercial auto (CA), and personal auto (PA) claim files. The Market Conduct examiners cited 51 claims handling violations of the Fair Claims Settlement Practices Regulations and/or the California Insurance Code Section 790.03.

<b>North American Specialty Insurance Company</b>			
<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
GL Property Damage	64	18	5
CA Bodily Injury	51	19	0
CA Uninsured Motorist Bodily Injury	1	1	2
CA Property Damage	69	52	18
PA Comprehensive	3	3	0
PA Collision	2	2	1
CA Comprehensive	13	12	8
CA Collision	43	23	17
<b>TOTALS</b>	246	130	51

<b>TABLE OF TOTAL CITATIONS</b>		
<b>Citation</b>	<b>Description</b>	<b>NAS</b>
CCR § 2695.3(a)	The Company's claim file failed to contain all documents, notes and work papers which pertain to the claim.	20
CCR § 2695.8(f)	The Company failed to supply the claimant with a copy of the estimate upon which the settlement is based.	12
CCR § 2695.7(b)(3)	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.	3
CCR § 2695.4(a)	The Company failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy.	3
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.	3
CCR § 2695.5(e)(3)	The Company failed to begin investigation of the claim within fifteen calendar days.	3
CCR § 2695.5(e)(1)	Failure to acknowledge claim within 15 days after receiving notice of claim.	2
CCR § 2695.7(h)	Upon acceptance of the claim the Company failed to tender payment within thirty calendar days.	2
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.	2
CCR § 2695.5(b)	The Company failed to respond to communications within fifteen calendar days.	1
<b>Total Citations</b>		<b>51</b>

## **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(s) that has 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 resulting from the criticisms cited in this report.

**1. The Company failed to properly document claim files.** In 20 instances the Company's file(s) failed to contain all documents, notes and work papers. The Department alleges these acts are in violation of CCR §2695.3(a).

**Company Response:** "These claims were handled by a Third-Party Administrator (TPA) for the program in question. This entity is no longer working for NAS, and therefore no longer serving as a TPA for these claims. NAS staff claims handlers are trained through yearly California Fair Claims Settlement Practices seminars and NAS policies and procedures, to comply with the regulations. Based on your finding, NAS has and will continue to endeavor to require that TPAs comply with California Fair Claims Settlement Practices regulations. This compliance will be achieved both through contractual obligations secured from the TPAs and regular auditing of the TPA files."

**2. The Company failed to supply the claimant with a copy of the estimate upon which the settlement is based.** In 12 instances the Company failed to supply the claimant with a copy of the estimate upon which the settlement is based. The Department alleges these acts are in violation of CCR § 2695.8(f).

**Company Response:** "We have implemented specific guidelines. This includes notification to outside vendors on this topic. By way of explanation, it should be noted that NAS has and will continue to retain the services of Property Damage Appraisers (PDA) to handle the claims, which fall within this category. PDA is a nationwide company, which assures NAS that when dealing with claims arising out of the State of California, it is their policy, procedure, custom and practice to comply with this and all other California regulations."

**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 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:** “Prior to your Market Conduct survey, NAS was under the mistaken belief that the mandates of section 2695.7(b)(3) did not apply to third-party claimants in which the claimants were represented by counsel. In re-analyzing this provision in light of your comment, NAS understands and will heretofore comply with the regulations in all correspondence which in any way denies all or part of any claim.”

**4. The Company failed to disclose all policy provisions.** In three instances the Company failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy. The Department alleges these acts are in violation of CCR § 2695.4(a).

**Company Response:** “The standard procedure for all claims handlers at this company is to confirm coverage by pulling the policy and then contacting the insured to discuss all pertinent coverage issues. Coverage is to be explained to the insureds in each of these cases. A review of section 2695.4(a) does not disclose a requirement of written confirmation of compliance with this provision in the file. As such, claims handlers will now document the claim file evidencing the discussion of policy information with the first-party claimant.”

**5. Company failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile.** In three instances the Company failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile. The Department alleges these acts are in violation of CCR § 2695.8(b)(1).

**Company Response:** “It is NAS’ policy and procedure to pay Department of Motor Vehicle fees and taxes in total loss claims. This policy has been reconfirmed to both the inside and separately retained adjusting staff. In addition, correspondence will be directed to outside appraisers reconfirming NAS’s position and the CDI regulations.”

**6. The Company failed to begin investigation of the claim within fifteen calendar days.** In three 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).

**Company Response:** “The topic of prompt investigation has been addressed to staff in the past, and reiterated since the Market Conduct survey in question. Further, these claims were handled by a Third Party Administrator which is no longer handling claims for NAS. Outside Third Party Administrators will, by contract obligation and audit be advised and monitored on this point.”

**7. The Company failed to acknowledge notice of claim within fifteen calendar days.**

In two instances the Company failed to acknowledge notice of claim within fifteen calendar days. The Department alleges these acts are in violation of CCR § 2695.5(e)(1).

**Company Response:** “This fact has been reaffirmed to those involved, and the claims handling staff generally. Third Party Administrators are and will be compelled to comply with regulations by both contract provision and regular audits.”

**8. Upon acceptance of the claim the Company failed to tender payment within thirty calendar days.**

In two 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:** “These claims were handled by a Third-Party Administrator for the program in question. This entity is no longer working for NAS, and therefore no longer serving as a TPA for these claims. NAS has and continues to have a standing policy that all drafts are to be processed and sent within forty-eight (48) hours of an agreed payment amount. As to outside vendors (Third Party Administrators), NAS will, by means of contractual obligation and regular audit, continue its efforts to facilitate compliance with this and all other regulations.”

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

In two 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).

**Company Response:** “This was an error, and specific instruction on this point has been re-emphasized to the adjusting staff.”

**10. The Company failed to respond to communications within fifteen calendar days.**

In one instance the Company failed to respond to communications within fifteen calendar days. The Department alleges this act is in violation of CCR § 2695.5(b).

**Company Response:** “These claims were handled by a Third-Party Administrator for the program in question. This entity is no longer working for NAS, and therefore no longer serving as a TPA for these claims. In the future, all Third Party Administrators will, by contract provision and audit, be required to comply with this specific section and all other California Department of Insurance regulation requirements.”