

PUBLIC REPORT OF EXAMINATION OF THE CLAIMS

PRACTICES OF THE

**WAWANESA MUTUAL INSURANCE COMPANY**  
**NAIC # 31526 CDI # 2163-4**

**WAWANESA GENERAL INSURANCE COMPANY**  
**NAIC # 10683 CDI # 4364-6**

AS OF MARCH 31, 2001

**STATE OF CALIFORNIA**



**DEPARTMENT OF INSURANCE**

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**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



September 27, 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:

**Wawanesa Mutual Insurance Company**

**NAIC #31526**

**Wawanesa General Insurance Company**

**NAIC #10683**

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](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 Companies during the period April 1, 2000 through March 31, 2001. The 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) 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 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 examination was primarily conducted at the Companies' Home Office in San Diego, Calif.

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 April 1, 2000 through March 31, 2001, commonly referred to as the “review period”. The examiners reviewed 272 Wawanesa Mutual Insurance Company files consisting of 200 Personal Auto (PA), 36 Homeowners (HO), and 36 Condominium files; 333 Wawanesa General Insurance Company files consisting of 260 Personal Auto (PA), 38 Homeowners (HO) and 35 Condominium files. The Market Conduct examiners cited 23 claims handling violations of the Fair Claims Settlement Practices Regulations and/or the California Insurance Code Section 790.03.

<b>Wawanesa Mutual Insurance Company</b>			
<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
PA-Liability Bodily Injury	2,306	32	0
PA-Uninsured Motorist Bodily Injury	636	38	0
PA-Medical Payments	2,145	32	0
PA-Property Damage	8,297	20	1
PA-Comprehensive	4,296	21	0
PA-Collision	13,919	37	3
PA-UM Property Damage	142	20	0
HO-Basic	1,080	36	0
HO-Condominiums	124	36	0
<b>TOTALS</b>	32,945	272	4

**Wawanesa General Insurance Company**

<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
PA-Liability Bodily Injury	2,065	40	0
PA-Uninsured Motorist Bodily Injury	539	35	0
PA-Medical Payments	827	32	2
PA-Property Damage	7,835	45	2
PA-Comprehensive	4,233	44	7
PA-Collision	11,342	34	0
PA-UM Property Damage	136	30	0
HO-Basic	803	38	6
HO-Condominiums	134	35	2
<b>TOTALS</b>	27,914	333	19

**TABLE OF TOTAL CITATIONS**

Citation	Description	Wawanesa Mutual	Wawanesa General
CCR§2695.7(g)	The Company attempted to settle a claim by making a settlement offer that was unreasonably low	0	7
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.	0	3
CCR §2695.8(b)(1)(c)	The Company failed to document the determination of value. Any deductions from value, including deduction for salvage, must be discernible, measurable, itemized, and specified as well as be appropriate in dollar amount	1	2
CCR §2695.8(b)(1)	The Company failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile.	1	2
CIC§790.03(h)(5)	Failure to effectuate prompt, fair and equitable settlement of claim.	1	1
CCR §2695.7(h)	Upon acceptance of the claim the Company failed to tender payment within thirty calendar days.	0	1
CCR §2695.5(e)(2)	The Company failed to acknowledge notice of claim within fifteen calendar days.	0	1
CCR §2695.7(b)	The Company failed, upon receiving proof of claim, to accept or deny the claim within forty calendar days.	0	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	0
CCR §2695.7(c)(1)	The Company failed to provide written notice of the need for additional time every thirty calendar days.	0	1
<b>Total Citations</b>		4	19

## 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 Companies are 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 Companies, it is the Companies obligation to ensure that compliance is achieved. There were 2 cases where money was recovered for claimants. The total money returned was \$267.58.

**1. The Companies attempted to settle a claim by making a settlement offer that was unreasonably low.** In 7 instances the Companies attempted to settle a claim by making a settlement offer that was unreasonably low. The Department alleges these acts are in violation of CCR § 2695.7(g).

**Companies Response:** The Companies response is that they are in compliance with the law. Their position is that the coverage form sent out with every individual Homeowners and Condominium Policy adequately explains how ACV is calculated.

This issue is unresolved. The Department will conduct further review of the documents and issues involved.

**2. The Companies 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 3 instances the Companies 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)

**Companies Response:** The companies agreed to revise the language in correspondence to the claimant that more clearly defines the basis for the settlement.

**3. The Companies failed to document the determination of value.** In 3 instances the Companies failed to document the determination of value. Any deductions from value, including deduction for salvage, must be discernible, measurable, itemized, and specified as well as be appropriate in dollar amount. The Department alleges these acts are in violation of CCR § 2695.8(b)(1)(C).

**Companies Response:** The Companies agreed to revise the language in correspondence to the claimant that more clearly defines the basis for determination of value.

**4. The Companies failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile.** In 3 instances the Companies 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).

**Companies Response:** The Companies agreed to revise the language in correspondence to the claimant that more clearly defines the basis for determination of value.

**5. The Companies failed to effectuate prompt, fair and equitable settlement of claim.** In 2 instances the Companies failed to effectuate prompt, fair and equitable settlements. The Department alleges these acts are in violation of CIC§790.03(h)(5).

**Companies Response:** The Companies have agreed to a self-audit of their total loss files that were closed during the preceding 18 months. Any of these claims that involved an owner retained salvage vehicle will be identified and the \$3.00 fee will be forwarded to the claimant. The fee will be included as part of all retained salvage total loss settlements from this point forward for third parties.

**6. Upon acceptance of the claim the company failed to tender payment within thirty calendar days.** In 1 instance upon acceptance of the claim the company failed to tender payment within thirty calendar days. The Department alleges this act is in violation of CCR § 2695.7(h).

**Companies Response:** As a result of this examination, the Companies acknowledged this violation and have conducted training and updated procedures for claims staff.

**7. The Companies failed to provide necessary forms, instructions, and reasonable assistance within fifteen calendar days.** In 1 instance the Companies failed to provide necessary forms, instructions, and reasonable assistance within fifteen calendar days. The Department alleges this act to be in violation of CCR § 2695.5(e)(2).

**Companies Response:** As a result of this examination, the Companies acknowledged this violation and have conducted training and updated procedures for claims staff.

**8. The Companies failed to accept or deny the claim within forty calendar days.** In 1 instance the Companies failed, upon receiving proof of claim, to accept or deny the claim within forty calendar days. The Department alleges this act to be in violation of CCR § 2695.7(b).

**Companies Response:** As a result of this examination, the Companies acknowledged this violation and have conducted training and updated procedures for claims staff.

**9. The Companies failed to properly document claim files.** In 1 instance the Companies file failed to contain all documents, notes and work papers. The Department alleges this act to be in violation of CCR §2695.3(a).

**Companies Response:** As a result of this examination, the Companies acknowledged this violation and have conducted training and updated procedures for claims staff.

**10. The Companies failed to provide written notice of the need for additional time every thirty calendar days.** In 1 instance the Companies failed to provide written notice of the need for additional time every thirty-calendar days. The Department alleges this act is in violation of CCR § 2695.7(c)(1).

**Companies Response:** As a result of this examination, the Companies acknowledged this violation and have conducted training and updated procedures for claims staff.