

PUBLIC REPORT OF EXAMINATION OF THE CLAIMS
PRACTICES OF THE
YOSEMITE INSURANCE COMPANY
NAIC # 26220 CDI # 1779-8

AS OF JUNE 30, 1999

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



July 12, 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:

Yosemite Insurance Company

NAIC #26220

Hereinafter referred to as YIC or 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 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 California Department of Insurance Market Conduct Bureau office in Los Angeles, 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 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 60 Yosemite Insurance Company creditor involuntary unemployment insurance and creditor-placed limited physical damage claim files. The Market Conduct examiners cited nine claims handling violations of the Fair Claims Practices Regulations and/or the California Insurance Code.

Yosemite Insurance Company			
CATEGORY	CLAIMS FOR REVIEW PERIOD	REVIEWED	CITATIONS
Creditor Involuntary Unemployment Insurance Paid	387	24	1
Creditor Involuntary Unemployment Insurance Not Paid	118	11	2
Creditor –Placed Limited Physical Damage Paid	89	23	6
Creditor-Placed Limited Physical Damage Not Paid	10	2	0
TOTALS	604	60	9

TABLE OF TOTAL CITATIONS		
Citation	Description	YIC
CCR §2695.7(b)(1)	The Company failed to provide written basis for the denial of the claim.	3
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 §2695.8(m)	The Company failed to pay the reasonable towing charges of the towing company used by the insured.	2
CCR §2695.3(a)	The Company's claim file failed to contain all documents, notes and work papers which pertain to the claim.	1
CIC § 790.03(h)(3)	The Company failed to adhere to standards for the adequate investigation and processing of claim.	1
Total Citations		9

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 discovered during the course of this examination. However, some recoveries may result from the insurer's self-audit conducted in response to the examination.

1. The Company failed to provide written basis for the denial of the claim.

In three instances the Company failed to provide written basis for the denial of the claim. The Department alleges these acts are in violation of CCR § 2695.7(b)(1).

Company Response: The Company acknowledges these deficiencies and has stated that in future cases, where the specific circumstance for denial does not match the exact certificate exclusion section wording, such reference will be included.

The Company states: "It is our general practice to include a specific explanation of why all claims are being denied. The denial letters include wording similar to 'According to your certificate of insurance, (insert explanation) is not covered. Therefore, no benefits are payable.' The specific certificate section title is not stated (i.e. According to the Exclusions section of your certificate...). We do not argue that this is a reasonable request, and are updating our denial letters to include the specific section title. However, since this requirement is an interpretation of the regulation just presented to us in this exam and not specifically stated in the regulation itself, we do not feel the referenced claims should be cited in error."

2. 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: The Company acknowledges the errors were due to Adjuster oversight. Claims Specialist have been counseled and procedures in general will be reinforced at a staff meeting.

The Company states: “It is our normal business practice to advise the insured when we do not intend to pursue subrogation, provided there is a legal basis for subrogation. These instances were human error. This specialist has been counseled.”

3. The Company failed to pay the reasonable towing charges of the towing company used by the insured. In two instances the Company failed to pay the reasonable towing charges of the towing company used by the insured. The Department alleges these acts are in violation of CCR § 2695.8(m).

Company Response: The Company acknowledges the errors were due to Adjuster oversight. In each case, the Insured has been re-contacted for payment consideration.

The Company states: “It is our normal business practice to pay reasonable towing charges of the insured in conjunction with a total loss. The instances cited were human error. The specialists have been counseled. We will attempt to contact both of these customers to ensure there were no towing and storage charges. In addition, we will conduct a full review for all claims processed during the year 2000 to ensure no other towing and storage charges apply.” The findings of this self-audit will be reported to the Department of Insurance.

4. The Company failed to properly document claim files. In one instance 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 the deficiency and has implemented new procedures to ensure compliance.

The Company states: “For this claim, there was no notation in the file that the specialist determined there was not legal basis for subrogation. We are implementing procedures to note in the file when we determine there is no legal basis for subrogation. The claim manual will be updated and specialists will be informed of the change verbally.”

5. The Company failed to adhere to standards for the adequate investigation and processing of claim. In one instance the Company failed to adhere to standards for the adequate investigation and processing of claim. The Department alleges this act is in violation of CCR § 790.03(h)(3).

Company Response: The Company acknowledges the error and has counseled its staff to conduct thorough claims investigations.

The Company states: “On the instance cited, we did not obtain the specific reason for unemployment. The insured had qualified for and was receiving state unemployment benefits. Based on this information, the claim was paid. The exact

cause of termination should have been determined prior to a payment being issued to ensure it was not a loss excluded under the terms of our certificate of insurance. This was human error. This specialist has been counseled.”