

PUBLIC REPORT OF EXAMINATION OF THE CLAIMS
PRACTICES OF THE
CALIFORNIA AUTOMOBILE INSURANCE COMPANY
NAIC # 38342 CDI # 2343-2

AS OF MAY 31, 2002

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



February 25, 2003

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:

California Automobile Insurance Company

NAIC #38342

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, 2001 through May 31, 2002. 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 primarily in the Company's claim office in Brea, 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, 2001 through May 31, 2002, commonly referred to as the “review period”. The examiners reviewed 442 California Automobile claim files. The examiners cited 28 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.

California Automobile Insurance Company			
CATEGORY	CLAIMS FOR REVIEW PERIOD	REVIEWED	CITATIONS
Personal Auto - Bodily Injury	2,008	65	0
Personal Auto - Medical Payments	665	64	6
Personal Auto - Uninsured Motorist Bodily Injury	228	49	0
Personal Auto - Uninsured Motorist Property Damage	595	59	2
Personal Auto - Property Damage	7,501	72	9
Personal Auto - Comprehensive	2,527	66	4
Personal Auto - Collision	7,638	67	7
TOTALS	21,162	442	28

TABLE OF TOTAL CITATIONS

Citation	Description	California Automobile Insurance Company
CCR §2695.8(f)	The Company failed to supply the claimant with a copy of the estimate upon which the settlement is based.	7
CCR §2695.7(c)(1)	The Company failed to provide written notice of the need for additional time every thirty calendar days.	5
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.	4
CCR §2695.7(b)(1)	Company failed to provide a factual basis for the denial in writing.	2
CCR §2695.3(b)(2)	Company failed to record date relevant documents received.	2
CCR §2695.8(k)	The Company failed to provide the claimant with a written explanation of the basis for the adjustment of the settlement.	2
CIC §790.03(h)(5)	Failure to effectuate prompt, fair, and equitable settlement of claim. The Company failed to include, in the settlement of third party total loss claims, all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the comparable automobile.	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
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
CCR §2695.7(d)	The Company persisted in seeking information not reasonably required for or material to the resolution of a claim dispute.	1
CCR §2695.7(g)	The Company attempted to settle a claim by making a settlement offer that was unreasonably low.	1
Total Citations		28

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. The total money recovered was \$822.24 within the scope of this report.

1. The Company failed to supply the claimant with a copy of the estimate upon which the settlement is based. In seven 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).

Summary of Company Response: The Company has acknowledged these violations. The Company views these acts as employee oversight since there are company procedures in place regarding this issue. Additional training has been conducted to ensure compliance with the requirement.

2. The Company failed to provide written notice of the need for additional time every thirty calendar days. In five instances, the Company 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).

Summary of Company Response: The Company has acknowledged these violations. The Company views these acts as employee oversight since there are company procedures in place regarding this issue. Additional training has been conducted to ensure compliance with the requirement.

3. 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 four 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: "We are unaware of any section of the Fair Claims Settlement Practices Regulations requiring companies to be responsible for the \$3 Salvage Certificate Fee." However, claims personnel have been instructed to include this \$3.00 fee in the settlement of all cases where we have notified California DMV that the salvage was owner retained, on a going forward basis. The one instance where the VLF was not paid appears to be an oversight by the file handler as there are company procedures in place regarding this issue. A supplemental payment has been made on this claim.

4. **The Company failed to provide written basis for the denial of the claim.** In two 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).

Summary of Company Response: The Company has acknowledged these violations. The Company views these acts as employee oversight since there are company procedures in place regarding this issue. Additional training has been conducted to ensure compliance with the requirement.

5. **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 has acknowledged these violations. The Company views these acts as employee oversight since there are company procedures in place regarding this issue. Additional training has been conducted to ensure compliance with the requirement.

6. **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.** In two instances, 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. The Department alleges these acts are in violation of CCR §2695.8(k).

Summary of Company Response: The Company has agreed to implement procedures whereby they will be including Actual Cash Value information with the settlement itemization form on all Total Loss Claims. Claims personnel have been instructed to send to the Insured or Claimant the documentation for each example vehicle used as a comparable in the Actual Cash Value documentation. The file should be documented to reflect that the Actual Cash Value information has been sent to the Policyholder or Claimant

7. **The Company failed to effectuate prompt, fair, and equitable settlement of claim.** In two instances, the Company failed to effectuate prompt, fair, and equitable settlement of claim. The Company failed to include in the settlement of third party total losses, 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 CIC §790.03(h)(5).

Summary of Company Response: “We are unaware of any section of the Fair Claims Settlement Practices Regulations requiring companies to be responsible for the \$3 Salvage Certificate Fee.” However, claims personnel have been instructed to include this \$3.00 fee in the settlement of all cases where we have notified California DMV that the salvage was owner retained.

8. The Company failed to comply with the Fair Claims Regulations Practices. In one instance each, the Company's file failed to comply with the following Fair Claims Regulations Practices: CCR §2695.3(a), CCR §2695.8(b)(1)(C), CCR §2695.7(d), and CCR §2695.7(g).

Summary of Company Response: The Company has acknowledged these violations. The Company views these acts as employee oversight since there are company procedures in place regarding each issue. Additional training has been conducted to ensure compliance with each requirement.