

PUBLIC REPORT OF THE MARKET CONDUCT EXAMINATION

OF THE CLAIMS PRACTICES OF THE

**MERCURY INSURANCE COMPANY**  
**NAIC # 27553 CDI # 2143-6**

**MERCURY CASUALTY COMPANY**  
**NAIC # 11908 CDI # 1952-1**

AS OF MAY 31, 2003

**STATE OF CALIFORNIA**



**DEPARTMENT OF INSURANCE**  
**MARKET CONDUCT DIVISION**  
**FIELD CLAIMS BUREAU**

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**DEPARTMENT OF INSURANCE**

Consumer Services and Market Conduct Branch  
Field Claims Bureau, 11th Floor  
300 South Spring Street  
Los Angeles, CA 90013



May 28, 2004

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:

**Mercury Insurance Company**

**NAIC #27553**

**Mercury Casualty Company**

**NAIC #11908**

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 June 1, 2002 through May 31, 2003. 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), 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. Any alleged violations of other relevant laws which may result from this examination will be included in a separate report which will remain confidential subject to the provisions of CIC Section 735.5.

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 conducted primarily at the Companies' claims offices 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, 2002 through May 31, 2003, commonly referred to as the “review period”. The examiners reviewed 370 Mercury Insurance Company claims files and 352 Mercury Casualty Company claim files. The examiners cited 37 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.

<b>Mercury Insurance Company</b>			
<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
Personal Auto Collision	111,735	55	0
Personal Auto Comprehensive	33,316	71	4
Personal Auto Property Damage	72,778	48	2
Personal Auto UMBI	5,256	50	1
Personal Auto UMPD	4,451	48	3
Personal Auto Medical Payments	12,680	50	1
Personal Auto Bodily Injury	22,352	48	0
<b>TOTALS</b>	262,568	370	11

**Mercury Casualty Company**

<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
Personal Auto Collision	39,335	19	1
Personal Auto Comprehensive	11,099	18	2
Personal Auto Property Damage	27,092	20	1
Personal Auto UMBI	1,693	27	0
Personal Auto UMPD	1,626	19	2
Personal Auto Medical Payments	4,420	15	1
Personal Auto Bodily Injury	8,589	21	1
Homeowners	11,465	68	12
Commercial Auto Collision	3,228	20	1
Commercial Auto Comprehensive	617	20	0
Commercial Auto Property Damage	3544	20	3
Commercial Auto UMBI	99	21	0
Commercial Auto UMPD	118	20	1
Commercial Auto Med Pay	260	23	1
Commercial Auto Bodily Injury	1,203	21	0
<b>TOTALS</b>	114,388	352	26

<b>TABLE OF TOTAL CITATIONS</b>			
<b>Citation</b>	<b>Description</b>	<b>Mercury Insurance Company</b>	<b>Mercury Casualty Company</b>
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.	7	3
CCR §2695.7(c)(1)	The Company failed to provide written notice of the need for additional time every 30 calendar days.	1	6
CCR §2695.7(b)	The Company failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days.	1	3
CCR §2695.7(b)(1)	The Company failed to provide the written basis for the denial of the claim.	0	4
CIC §790.03(h)(3)	The Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under its insurance policies.	0	3
CIC §790.03(h)(5)	The Company failed to effectuate prompt, fair and equitable settlements of claims in which liability had become reasonably clear.	0	2
CCR § 2695.5(e)(3)	The Company failed to begin investigation of the claim within 15 calendar days.	0	2
CCR § 2695.7(b)(3)	The Company failed to include a statement in its 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.	0	1
CCR § 2695.7(d)	The Company persisted in seeking information not reasonably required for or material to the resolution of a claim dispute.	0	1
CCR § 2695.5(d)	The Company's claims agent failed to immediately transmit notice of claim to the insurer.	1	0
CCR § 2695.5(b)	The Company failed to respond to communications within 15 calendar days.	0	1
CCR § 2695.4(a)	The Company failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy.	1	0
<b>Total Citations</b>		11	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. Money recovered within the scope of this report was \$310.66.

**1. The Companies 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 ten instances, the Companies 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 Companies' Response:** The Companies acknowledge that in the eleven instances cited they failed to include in the settlement, all applicable license fees and other fees incident to transfer of evidence of ownership of the comparable automobile. In nine of the instances there was a failure to include the salvage certificate fees on owner retained total loss settlements. In two of the instances cited there was a failure to include the unused VLF fees in the claim settlement. The Companies' state "Company procedure is to pay sales tax and the \$3.00 salvage certificate fee on owner retained vehicles. This issue came up in the California Insurance Auto Exam last year and all losses mentioned in this Market Conduct Claims Practices Examination were losses that occurred prior to the procedural change made as a result of that exam. On each of the applicable files, the applicable party was contacted regarding this issue and payment of the salvage certificate fee was forwarded to them. Also, it is company procedure to include, in the settlement, all license and other fees associated with the transfer of evidence of ownership of the comparable automobile. We will continue to ensure compliance through our use of training programs, supervisory input and internal audits."

**2. The Companies failed to provide written notice of the need for additional time every 30 calendar days.**

In seven instances, the Company failed to provide written notice of the need for additional time every 30 calendar days. The Department alleges these acts are in violation of CCR § 2695.7(c)(1).

**Summary of Companies' Response:** The Companies acknowledge that in the seven instances cited the Companies failed to provide written notice of the need for additional time every 30 calendar days. The Companies' state "The Company has had procedures in place to comply with this section of the Regulations since their inception. We will continue to ensure compliance through our use of training programs, supervisory input and internal audits."

**3. The Companies failed to accept or deny the claim within 40 calendar days.** In four instances, the Company failed upon receiving proof of claim, to accept or deny the claim within 40 calendar days. The Department alleges these acts are in violation of CCR § 2695.7(b).

**Summary of Companies' Response:** The Companies acknowledge that in the four instances cited the Companies failed upon receiving proof of claim, to accept or deny the claim within 40 calendar days. In one instance the claim was not accepted until day 80. The Companies have advised that they have had procedures in place to comply with this section of the regulations since their inception. They will continue to ensure compliance through training programs, supervisory input and internal audits.

**4. The Companies failed to provide written basis for the denial of the claim.** In four 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 Companies' Response:** The Companies acknowledge that in the four instances cited the Companies failed to provide written basis for the denial of the claim. The Companies have advised that they have had procedures in place to comply with this section of the Regulations since their inception. They will continue to ensure compliance through training programs, supervisory input and internal audits.

**5. The Companies failed to adopt and implement reasonable standards for the prompt investigation and processing of claims.** In three instances, the Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under its insurance policies. The Department alleges these acts are in violation of CIC § 790.03(h)(3).

**Summary of Companies' Response:** The Companies acknowledge that in the three instances cited the Companies failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under its insurance policies. In the three instances cited it was noted that there were gaps in the handling of the claim files. The Companies have advised that they have had procedures in place to comply with this section of the Regulations since their inception. They will continue to ensure compliance through training programs, supervisory input and internal audits.

**6. The Companies failed to effectuate prompt, fair and equitable settlements of claims in which liability had become reasonably clear.** In two instances, the Company failed to effectuate prompt, fair and equitable settlements of claims in which liability had become reasonably clear. The Department alleges these acts are in violation of CIC § 790.03(h)(5).

**Summary of Companies' Response:** The Companies acknowledge that in the two instances cited the Companies failed to effectuate prompt, fair and equitable settlements of claims in which liability had become reasonably clear. In one file material sales tax was not included in the claim settlement. In the other file a subrogation demand that was received was not paid until 133 days after the subrogation demand was received. The Companies have advised that they have had procedures in place to comply with this section of the Regulations since their

inception. They will continue to ensure compliance through training programs, supervisory input and internal audits.

7. **The Companies failed to begin investigation of the claim within 15 calendar days.** In two instances, the Companies failed to begin investigation of the claim within 15 calendar days. The Department alleges these acts are in violation of CCR § 2695.5(e)(3).

**Summary of Companies' Response:** The Companies acknowledge that in the two instances cited the Companies failed to begin investigation of the claims within 15 calendar days. The Companies have advised that they have had procedures in place to comply with this section of the Regulations since their inception. They will continue to ensure compliance through training programs, supervisory input and internal audits.

8. **The Companies failed to comply with the Fair Claims Regulations Practices.** In one instance each, the Companies failed to comply with the following Fair Claims Regulations Practices: CCR § 2695.7(b)(3), CCR § 2695.7(d), CCR § 2695.5(d), CCR § 2695.5(b), CCR § 2695.4(a).

**Summary of Companies' Response:** The Companies acknowledge that in the instances cited there was a failure to comply with the Fair Claims Regulations Practices. The Companies have advised that they have had procedures in place to comply with these sections of the Regulations since their inception. The Companies will continue to ensure compliance through the use of training programs, supervisory input and internal audits.