

PUBLIC REPORT OF THE MARKET CONDUCT EXAMINATION

OF THE CLAIMS PRACTICES OF THE

**PERMANENT GENERAL ASSURANCE CORPORATION**  
**NAIC # 37648 CDI # 2979-3**

AS OF DECEMBER 31, 2003

**STATE OF CALIFORNIA**



**DEPARTMENT OF INSURANCE**  
**MARKET CONDUCT DIVISION**  
**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

**DEPARTMENT OF INSURANCE**

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



August 3, 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:

Permanent General Assurance Corporation

NAIC #37648

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](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 January 1, 2003 through December 31, 2003. 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. 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 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 at the offices of Permanent General in Mission Viejo, 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 January 2003 through December 31, 2003, commonly referred to as the “review period”. The examiners reviewed 519 claim files. The examiners cited 31 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>Permanent General Assurance Corporation</b>			
<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
Medical Pay	168	48	13
Bodily Injury	1312	65	7
Collision Deductible Waiver	238	53	4
Collision	3895	63	3
Property Damage	3987	67	2
Comprehensive	873	63	2
Rental	826	63	0
Uninsured Motorist Bodily Injury	193	50	0
Uninsured Motorist Property Damage	153	47	0
<b>TOTALS</b>	11645	519	31

## TABLE OF TOTAL CITATIONS

Citation	Description	
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.	5
CCR §2695.7(C)(1)	The Company failed to provide written notice of the need for additional time every 30 calendar days.	4
CCR §2695.7(b)	The Company failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days.	4
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.	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.	2
CCR §2695.7(h)	Upon acceptance of the claim the Company failed to tender payment within 30 calendar days.	2
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.	2
CCR §2695.7(d)	The Company persisted in seeking information not reasonably required for or material to the resolution of a claim dispute.	2
CCR §2695.7(f)	The Company failed to provide written notice of any statute of limitation or other time period requirement not less than 60 days prior to the expiration date.	2
CCR §2695.8(f)	The Company failed to supply the claimant with a copy of the estimate upon which the settlement is based.	1
CCR §2695.5(b)	The Company failed to respond to communications within 15 calendar days.	1
CCR §2695.5(e)(1)	The Company failed to acknowledge notice of claim within 15 calendar days.	1
CCR §2695.3(a)	The Company's claim file failed to contain all documents, notes and work papers that pertain to the claim.	1
CCR §2695.5(e)(3)	The Company failed to begin investigation of the claim within 15 calendar days.	1
<b>Total Citations</b>		31

## **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 \$1,320.00.

**1. The Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims.** In five instances, the Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under its insurance policies. The Company took longer than reasonably necessary to investigate claim. The Department alleges these acts are in violation of CIC §790.03 (h)(3).

**Summary of Company Response:** The Company acknowledges the deficiencies in the files cited and states that it is Company procedure to promptly investigate and process claims. Claims handling procedures have been reinforced with staff to assure future compliance with the Insurance Code.

**2. The Company failed to provide written notice of the need for additional time every 30 calendar days.** In four 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 Company Response:** The Company has acknowledged that in four instances, the claim file handling lacked thirty day status letters. The Company submits that their normal business practice is to comply with all Fair Claims Settlement Practices Regulations. As a result of this examination, claims handling procedures were reinforced with all staff.

**3. The Company 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 Company Response:** The Company acknowledges that it failed to accept or deny these claims within the required time limit due to adjuster oversight. It is Company procedure that a claim must be accepted or denied within 30 calendar days. If the claim is not accepted or denied within the 30 calendar days, then the Company's procedure is to request more time in writing, specifying the information still needed to make a determination on the claim. As a result of this examination, additional training has been conducted to address this issue.

**4. 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 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. The Department alleges these acts are in violation of CCR §2695.7(b)(3).

**Summary of Company Response:** The Company acknowledges these findings and to assure future compliance, this regulation was reviewed with all claims handlers. The Company also acknowledged that the required language was not included on the letter in these instances. Form letters are used for denials that contain the required language. The Company views this as an employee oversight and has conducted a training meeting with its staff on this subject.

**5. 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 two 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. In one instance, the Company paid the incorrect vehicle license fee due, and in the other instance, the Company failed to include the DMV transfer fee. The Department alleges these acts are in violation of CCR §2695.8(b)(1).

**Summary of Company Response:** The Company acknowledged these findings and states that it is Company policy to include vehicle license fee in their settlement. As a result of this examination, supplemental payments were issued. The Company further states that claim adjusters have been advised to include these fees in all first party total losses on an ongoing basis.

**6. Upon acceptance of the claim the Company failed to tender payment within 30 calendar days.** In two instances, upon acceptance of the claim the Company failed to tender payment within 30 calendar days. In each instance, the Company failed to reimburse the claimant deductible. The Department alleges these acts are in violation of CCR §2695.7(h).

**Summary of Company Response:** The Company acknowledges these two errors, citing examiner oversight. The Company will review the issue with the claims staff to ensure compliance.

**7. The Company failed to document the determination of value.** In two instances, 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. The Department alleges these acts are in violation of CCR §2695.8(b)(1)(C).

**Summary of Company Response:** The Company has acknowledged that in two instances, the adjuster failed to document the basis for a condition adjustment. The Company submits its normal course of business and its practice is to comply with all Fair Claims

Settlement Practices Regulations. As a result of this examination, claims handling procedures were reinforced with all staff.

**8. The Company persisted in seeking unnecessary information.** In two instances, the Company persisted in seeking information not reasonably required for or material to the resolution of a claim dispute. The Department alleges these acts are in violation of CCR §2695.7(d).

**Summary of Company Response:** The Companies acknowledge that it actively sought unnecessary information from the claimant/insured, due to a personnel issue. To assure future compliance, this regulation was reviewed with staff. “It is not our policy or procedure to seek unnecessary information to delay resolution of claims”.

**9. The Company failed to provide written notice of any statute of limitation 60 days prior to the expiration date.** In one instances, the Company failed to provide written notice of any statute of limitation or other time period requirement not less than 60 days prior to the expiration date. The Department alleges these acts are in violation of CCR §2695.7(f).

**Summary of Company Response:** The Company has acknowledged that in one instance, a claimant was not given written notice of the statute of limitations. The Company submits its normal course of business and its practice is to comply with all Fair Claims Settlement Practices Regulations. As a result of this examination, claims handling procedures were reinforced with all staff.

**10. The Company failed to properly document claim files.** In one instances, the Company’s file failed to contain all documents, notes and work papers. In this instance, the file did not contain the repair estimate issued to named insured. The Department alleges these acts are in violation of CCR §2695.3(a).

**Summary of Company Response:** The Companies acknowledge that the claim files cited were not properly documented. In order to assure future compliance, Claims handling procedures were reinforced with all staff on Company policy and procedures, to obtain written authorization from insured and copy to the Primary file documentation so each file is fully documented.

**11. The Company failed to supply the claimant with a copy of the estimate upon which the settlement is based.** In one 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 Companies acknowledge that the claim files cited were not properly documented. In order to assure future compliance, Claims handling procedures were reinforced with all staff on Company policy and procedures, to obtain written authorization from insured and copy to the primary file documentation so each file is fully documented.

**12. The Company failed to respond to communications within 15 calendar days.** In one instances, the Company failed to respond to communications within 15 calendar days. The Department alleges these acts are in violation of CCR §2695.5(b).

**Summary of Company Response:** The Company acknowledges this finding. As a result of this examination and to assure future compliance, this regulation has been reviewed with claims handling staff.

**13. The Company failed to acknowledge notice of claim within 15 calendar days.** In one instance, the Company failed to acknowledge notice of claim within 15 calendar days. The Department alleges these acts are in violation of CCR §2695.5(e)(1).

**Summary of Company Response:** The Company agrees with the auditors findings that notice of claim was not acknowledged within fifteen calendar days although it is normal practice and procedure to do so. The Company states that they experienced personnel issue that directly affected this claim. This regulation requirement has been reviewed with claims handling staff to assure future compliance.

**14. The Company failed to begin investigation of the claim within 15 calendar days.** In one instances, the Company 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 Company Response:** The Company agrees with the auditors findings that an investigation of claim did not begin within fifteen calendar days although it is normal practice and procedure to do so. The Company states that they experienced personnel issue that directly affected this claim. This regulation requirement has been reviewed with claims handling staff to assure future compliance.