



NATALIE A. HUBLEY  
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

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**ADDITIONAL INFORMATION**

**TO MEMBERS OF GOVERNING COMMITTEE REVIEW PANEL**

**FOR THE MEETING OF:**

**Tuesday, April 30, 2024, at 10:00 a.m.**

**GCRP**

**24.04 Calianos Insurance Agency/Norfolk and Dedham Insurance Company**

The Records of the Market Review Committee meeting of April 9, 2024 are attached for the Committee's reference in consideration of this agenda item. In addition, Mr. Jason Calianos has requested that the transcript of meeting also be included. (Docket #GCRP24.04, Exhibits #4 and #5)

Also attached is additional information received from the Calianos Insurance Agency and Norfolk and Dedham Insurance Company relative to the agency's appeal of the April 9, 2024 decision of the Market Review Committee. (Docket #GCRP24.04, Exhibits #6 and #7)

LYNNE ROSENBERG  
Director of Operations and Residual Market Services

Attachments

Boston, Massachusetts  
April 24, 2024



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## RECORDS OF MEETING

### MARKET REVIEW COMMITTEE – APRIL 9, 2024

#### Members Present

Ms. Sheila Doherty – Chair	Doherty Insurance Agency, Inc.
Ms. Pamela Bodenstab-Krynicki	P.L. Krynicki Insurance Agency
Ms. Sarah Clemens <sup>(1)</sup>	MAPFRE U.S.A. Corporation
Ms. Roberta Fitzpatrick	Arbella Insurance Group
Ms. Jean Houghton	Norfolk & Dedham Group
Ms. Mary McConnell	Safety Insurance Company
Mr. Kenneth Willis	Plymouth Rock Assurance Corporation
Mr. Mark Winiker	A-Affordable Insurance Agency, Inc.

Substituted for:

<sup>(1)</sup>Mr. Gary Sjolin

Not in Attendance:

Mr. Thomas Skelly, Jr., Deland Gibson Insurance Associates, Inc.

#### 18.01 Records of Previous Meeting

The Committee voted with five members in favor and two recused, Ms. Sarah Clemens and Ms. Roberta Fitzpatrick, to approve the Records of the Market Review Committee meeting of December 19, 2018. The Records have been distributed and are on file.

#### 24.04 Calianos Insurance Agency/Norfolk and Dedham Mutual Fire Insurance Company

Mr. Jason Calianos of the Calianos Insurance Agency requested a review contesting the practice undertaken by Norfolk & Dedham Mutual Fire Insurance Company (the Company) of demanding payment in full of the remaining outstanding premium balance upon issuance of a third cancellation notice. He asserts that the practice is in violation of Rule 28.C.2. of CAR's Rules of Operation. Ms. Jean Houghton of Norfolk & Dedham Group recused herself from participating in the discussion and vote.

In discussion of his request, Mr. Calianos claimed that in undertaking this practice, the Company had terminated the installment plan, stating that Rule 28.C.4. of CAR's Rules of Operation sets forth the remedy available to Assigned Risk Carriers (ARCs) when a policyholder fails to pay an installment premium by the applicable due date. That is, the Rule allows for the assessment of a late fee or cancellation fee of \$29.

Mr. Calianos cited the experience of one Calianos Insurance Agency insured as evidence of the alleged Rule violation. Specifically, he reviewed the cancellation notices issued to the policyholder, claiming that language contained in the second cancellation notice requiring payment in full if a third cancellation notice was issued is not in compliance with 211 CMR 97.04. Further, Mr. Calianos detailed associated communications with the Company as well as CAR staff findings with respect to 3 complaints filed regarding the matter. Mr. Calianos opined that because rates for MAIP policies are typically higher than policies written in the voluntary market, this practice places an added burden on the assigned risk and is therefore unfair and discriminatory. Finally, Mr. Calianos referred the Committee to CAR Rule 28, and indicated that the Rule did not provide for the cancellation of the payment plan, but rather provided for the assessment of a late payment fee.

Mr. Sean Moone representing the Norfolk & Dedham Mutual Fire Insurance Company explained that the Company's practice of requiring payment in full on the third cancellation notice had long been in place for both policies assigned through the MAIP and policies written voluntarily. He also pointed out that the cancellation notices contain the mandatory language prescribed by 211 CMR 97.04, plus additional language. Mr. Moone asserted that the policyholder had violated the billing plan by failing to adhere to the payment schedule. He confirmed that the company uses the CAR billing plan, and maintained that the billing plan set forth in the CAR Rule is silent as to actions that can be taken in instances where payments by the risk are not timely and therefore the nine equal monthly installments are no longer feasible.

The Committee asked questions of Mr. Moone regarding the Company's use of the MAIP billing plan, how the installment plan functions in cases of late payments, the language contained in the cancellation notices, the Company's use and administration of cancellation notices in the voluntary market, and its filing with the Division of Insurance relative to the billing plan and cancellation notices.

Significant discussion ensued focusing on the language in Rule 28.C. of CAR's Rules of Operation. Some members suggested that the Rule does not address remedies when late payments make equal monthly installments infeasible, resulting in ambiguity with respect to acceptable procedures in this case. Ms. Clemens noted that a strict read of the Rule as asserted by Mr. Calianos could mean that other company practices, that for example bill to equity, may be violative of the same provision. Messrs. Willis and Winiker, however, agreed that the remedy provided in the Rule calls only for the assessment of a late payment fee.

After discussion, the Committee voted with five in favor, two opposed, and one recused, that the Calianos Insurance Agency had not established that by requiring its policyholders issue payment in full of the remaining policy premium balance upon issuance of the third cancellation notice, Norfolk & Dedham Mutual Fire Insurance Company violates Rule 28.C.2. of CAR's Rules of Operation.

The Committee then voted with five in favor, two opposed and one recused, that the Calianos Insurance Agency had not established that Norfolk & Dedham Mutual Fire Insurance Company's practice of requiring that its policyholders issue payment in full of the remaining policy premium balance upon issuance of the third cancellation notice is unfair, unreasonable, or improper.

Ms. Rosenberg then advised that a subsequent review by the Governing Committee Review Panel may be requested pursuant to Rule 40 – Review and Appeal upon the submission of a Request for Review form.

RICHARD DALTON  
Residual Market Liaison

Boston, Massachusetts  
April 19, 2024



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PRESIDENT

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### TRANSCRIPT OF MARKET REVIEW COMMITTEE MEETING

A meeting of the Market Review Committee was held at the Automobile Insurers Bureau Conference Center at 101 Arch Street, 7<sup>th</sup> Floor, Boston, on

**TUESDAY, APRIL 9, 2024, AT 12:30 P.M.**

Committee Members present –

Ms. Sheila Doherty – Chair  
Doherty Insurance Agency, Inc.

Ms. Pamela Bodenstab-Krynicki	P.L. Krynicki Insurance Agency
Ms. Sarah Clemens <sup>(1)</sup>	MAPFRE U.S.A. Corporation
Ms. Roberta Fitzpatrick	Arbella Insurance Group
Ms. Jean Houghton	Norfolk & Dedham Group
Ms. Mary McConnell	Safety Insurance Company
Mr. Kenneth Willis	Plymouth Rock Assurance Corporation
Mr. Mark Winiker	A-Affordable Insurance Agency, Inc.

Substituted for:

<sup>(1)</sup>Mr. Gary Sjolin

Not in Attendance:

Mr. Thomas Skelly, Jr., Deland, Gibson Insurance Associates, Inc.

## PROCEEDINGS

*(Meeting began at 12:30 p.m.)*

Ms. Doherty: I'll call to order the Market Review Committee for April 9<sup>th</sup>. I appreciate everybody being here. We do have a substitution. Sarah Clemens is subbing for Gary Sjolin from MAPFRE. We don't know that Tom is not coming so I expect he will be here.

### 18.01 Records of Previous Meeting

Ms. Doherty: You all received the minutes from the previous Market Review Committee, which was way back on December 19, 2018 just so that you all remember exactly when that was. I don't know how many of us were on the committee at that time, but I'd entertain a motion to approve.

Mr. Winiker: So made.

Ms. Doherty: Thank you. Second?

Mr. Willis: Second.

Ms. Doherty: Motion's been made and seconded. All those in favor?

Most Committee Members: Aye.

Ms. Doherty: Those opposed?

Ms. Clemens: I'm going to abstain since I wasn't there.

Ms. Fitzpatrick: Same. Abstain.

Ms. Doherty: We have two abstentions. Roberta and Sarah are abstaining. The motion passes.

### 24.03 CAR Conflict of Interest Policy

Ms. Doherty: I'd like to read to you the Conflict of Interest Policy. The CAR Governing Committee is, by statutory mandate, comprised of representatives of the very entities and persons participating in the residual market that it administers. Individuals serving on the CAR Governing Committee, its advisory committees or its ad hoc committees must therefore be mindful of his or her obligation to act in the best interest of the Massachusetts auto residual market and the motoring public. A committee member who believes that he or she has a conflict or potential conflict of interest should announce their recusal, refrain from otherwise participating in the discussion, and not cast a vote on the applicable issue. Committee members who may have questions about a potential conflict are encouraged to consult the CAR Conflict of Interest

Policy which can be found at the CAR website on the Committees page.

**24.04 Calianos Insurance Agency/Norfolk and Dedham Mutual Fire Insurance Company**

Ms. Houghton: I'd just like to go on record to recuse myself.

Ms. Doherty: Jean Houghton from Norfolk and Dedham will recuse herself in this discussion. Thank you, Jean.

Ms. Doherty: This Market Review Committee is convened to consider allegations by the Calianos Insurance Agency that certain conduct by Norfolk and Dedham violates CAR Rules 28.C.2. and to consider whether or not certain conduct by Norfolk and Dedham identified by the agency is unfair, unreasonable and improper. Lynne, do you want to give us some background?

Ms. Rosenberg: Sure. I'll just give you some procedural background.

The Calianos Agency submitted a formal Request for Review to CAR dated February 16, 2024 seeking a review of Norfolk and Dedham's conduct with respect to its rescinding a payment plan for one of the agency's MAIP clients. The request contended, among other things, that Norfolk and Dedham's practices violated CAR Rule 28.C.2. addressing installments plans.

CAR staff and counsel considered the request and corresponded with the agency seeking clarification as to how the Calianos Agency was aggrieved by the conduct they complained of by Norfolk and Dedham. On February 21, 2024, Mr. Calianos supplemented the agency's request and provided additional information describing how the agency believes it has been aggrieved by Norfolk and Dedham's practices. The agency agreed to waive the requirement of convening today's hearing within 15 days of the Request for Review.

CAR provided both the Calianos Agency and Norfolk and Dedham with advanced notice scheduling today's meeting and the formal Notice of Meeting was issued on March 27, 2024. Both the agency and Norfolk and Dedham submitted materials in advance of the Notice and that information was distributed with the Notice of Meeting.

This Market Review Committee is convening today to consider whether or not the practice complained of by the agency violates CAR Rules. The agency contends that the practice by which Norfolk and Dedham demands payment in full of the remaining policy premium balance upon issuance of a third cancellation notice violates Rule 28.C.2. of CAR's Rule of Operation. In contesting the practice requiring payment in full upon issuing a third cancellation notice, the agency cites the experience of one of its insureds and the communications that the policyholder received as evidence of the alleged Rule violation.

Norfolk and Dedham denies that its practice violates any CAR Rules, among other things.

Pursuant to CAR Rule 40, the Committee should consider whether the conduct complained of violates any CAR Rule as alleged and whether the conduct complained of is an unfair, unreasonable or improper practice.

So, I'll turn it back over to Sheila so that she can invite the parties to speak.

Ms. Doherty:

Thank you. So, that's what we're here to look at and decide today. I'm going to ask Jason Calianos if you could come to the podium and present to us your issues. We'll hear the same from Norfolk and Dedham. If you could speak right into the mic, Jason, please.

Mr. Calianos:

Good afternoon. I'd like to take some time this afternoon to examine the argument and defense of both Norfolk and Dedham and CAR to this issue and show, through the provided exhibits, there is a clear violation of Rule 28. I do not intend to go over all the exhibits but to highlight specific documents. As I go through the documents, I'll be calling some exhibits. I have a copy of those so if any committee member doesn't want to go through all the documents, I can pass it to the table. Just let me know. I do apologize for all the documents. It was not my intention to overburden the committee. I just thought it was prudent to have as complete of a record as possible.

To start out, I would like to go through my timeline as I feel the one provided by Norfolk and Dedham in their letter is both incomplete and inaccurate.

On January 24<sup>th</sup>, I received a cancellation from Norfolk and Dedham for my client who resides in Roxbury. This was his third cancellation and the company was asking for the remaining balance. I do want to make something clear from the beginning. This client was not cancelled in the previous 24 months for non-pay. Therefore, he does not fall under any CAR Rule for full premium payment. You need to understand that right from the beginning.

On January 25<sup>th</sup>, I called Norfolk and Dedham customer service and inquired why are they requiring the full premium – by the way, I've never seen from other companies in recent memory – and requested that the premium or the dollar amount be revised downward. I was told by the representative that Norfolk and Dedham requires full premium on the third cancellation for voluntary and MAIP clients. I was also told that they regularly lower that payment on voluntary policies but have not and will never do it on a MAIP policy. That is their usual and customary practice.

On January 25<sup>th</sup>, I emailed Jean Houghton at Norfolk and Dedham and explained that I believe that this action was in violation of CAR Rules and attached Rule 28.C.2. You have the rule. That's my Exhibit 1, Pages 24-26. I'm sure most of you are familiar with the rule. Exhibit 1, Pages 24-26 is the email chain to Jean Houghton explaining the rule and her response. If you need time to look at that or if you need the document, let

me know. I was informed they will not lower the payment as CAR has advised them that since 2017 that this practice is acceptable.

On January 26<sup>th</sup>, I filed my first complaint which we'll go into detail soon. January 30<sup>th</sup>, four days later after I filed my first complaint, and Rich Dalton, on behalf of CAR, found the complaint not valid. Again, we'll go into detail on that. On January 31<sup>st</sup>, I filed a second complaint emphasizing the practice of terminating a payment plan, not the method of cancellation. We'll go into detail with that also. February 5<sup>th</sup>, I emailed CAR counsel and I said, hey, we have a little problem here, could you do me a favor or could you please look at the complaint and let's see if we can resolve this? CAR counsel promptly said I'll get back to you as soon as possible. February 13<sup>th</sup>, I filed my third complaint highlighting a violation of 211 CMR 97.04. Again, we'll discuss this in detail.

On February 16<sup>th</sup>, as I was hearing no response back from CAR or the company, because I'm under a 30-day rule, I filed the Rule 40 complaint. On February 21<sup>st</sup> – my initial contact with CAR counsel was on February 5<sup>th</sup>. They did say they'd get back to me, but they got back to me on February 21<sup>st</sup>. How did they get back to me? They sent a letter stating you have no standing, you're not an aggrieved party, we're not going to have a hearing. That letter is Exhibit 1, Page 5. CAR counsel sent a letter refusing to hold a Rule 40 hearing because I failed to describe or, in fact, reference how the agency was aggrieved.

On February 22<sup>nd</sup>, a day later, I amended my complaint to show that grievance even though CAR Rule 40 does not require an obligation to show an grievance but somehow CAR wanted this. I'm not sure why. On February 22<sup>nd</sup>, the same day, Rich Dalton, on behalf of CAR, entered a no-finding for complaints two and three. So, almost a month later from the second complaint he entered a no-finding.

The key issue regarding this complaint, as I see it, is whether the Rule allows an ARC, an Assigned Risk Company, to terminate a payment plan. In this case, Norfolk and Dedham is using its third cancellation as the vehicle for that method. Understand, from my point of view, the method is secondary. The practice of terminating a payment plan is primary. I think I made it clear in at least two of the three complaints and emails going back and forth.

The rule that governs this plan is Rule 28.C. If I could direct your attention to Rule 28.C. If you look at Rule 28.C., there are three provisions that stand out in Rule 28.C. One, each ARC, each Assigned Risk Company, will utilize the installment payment plan filed by CAR for MAIP business. Two, the remaining balance will be paid over nine equal monthly installments. And three, in Section 4, a policyholder who fails to pay the installment payment plan will be charged a cancellation fee of \$29.

If I could have the committee members look at Exhibit 1, Pages 20 through 21, which is my first complaint. In this complaint, I clearly state that I believe that the CAR Rule does not allow termination of a payment



plan and that CAR Rule 28.C.2. explicitly sets forth a system that requires that payments be made in nine equal monthly installments. It says it right there.

Norfolk and Dedham offers two defenses to the first complaint. One, CAR says I can do it. They said it was okay. Norfolk and Dedham contends that CAR said it was okay since at least 2017. The second defense in the first complaint is the second cancellation contained additional language notifying my client of a possible termination of payment plan if he didn't continue making payments on time.

Rich Dalton, on behalf of CAR, finds that the complaint is not valid. And the reason he finds that the complaint is not valid is that the cancellation is in compliance with 211 CMR 97.04. In other words, the words on the cancellation are correct. In other words, they complied and put all the right words on the cancellation. You can see this email exchange where he's explaining this on – the email exchange of him explaining it not being a valid a cancellation and me also trying to drill down on it is found on Exhibit 1, Page 27 through 30. Again, his reason for not finding a valid complaint is an examination of these cancellations reveal that the information and language mandated by 211 CMR 97.04 were contained in the notices, therefore, this complaint is deemed not valid.

If you review this, both CAR's response and Norfolk and Dedham's response, you see there's nothing in either response that remotely deals with the issue of terminating the payment plan. They simply failed to even look at the issue. As you can see, on Page 27 of Exhibit 1, which I just told you was the email chain, I tried to clarify and highlight the issue of the termination of a payment plan but there seems no way to address this issue either at CAR or by Norfolk and Dedham. So, in order to really focus on the main issue, the termination of a payment plan for any reason, I filed a second complaint.

If I you could direct your attention to Exhibit 1, Page 22, which is my second complaint. My second complaint is pretty straightforward. It's really two sentences: ARC is in violation of CAR Rule 28.C.2. The payment plan was terminated by the ARC. That was the second complaint. The second complaint attempts to force Norfolk and Dedham and CAR to address the real issue of the termination of the payment plan. Please note, in my second complaint, the word "cancellation" doesn't even appear. There's no mention of it. We're talking about a termination of a payment plan.

Norfolk and Dedham's response to the second complaint can be seen on Page 22. Their response is, again, guess what, CAR says we can do it. However, they go into further detail claiming that CAR advised them that an insured somehow can be in violation of Rule 28. Let me say that again. CAR advised them that an insured can be in violation of CAR Rule 28. By missing a payment, they're in violation of the rule. And, by the way, there's this other rule that allows the ARC to collect the full premium if the policy has been cancelled for non-payment in the previous 24 months. Let's make it clear for the third time. That is not the case

here. This client was not cancelled in the previous 24 months. There was no rule that would apply at CAR in this situation that would require 100% of premium either on a down payment or a subsequent payment.

Also, if you will notice that Norfolk and Dedham's response seems to quote CAR as the bulk of their response is in quotation marks. If you look at it, most of it, about three-quarters of it, there's a quotation mark around the statement. They do not mention if they're quoting a letter, a phone call, or a smoke signal. They don't even mention what they're quoting but they're quoting something, presumably CAR. I am told by agent Paul Wasghatt that he spoke to Rich Dalton and Rich told him that there was a letter from CAR to Norfolk and Dedham. That's all I know. I did speak with CAR counsel about the letter, who claims there was a letter also.

Ms. Doherty:

Are you all set?

Mr. Calianos:

No. If you look at this case, I find it very strange that no correspondence has been mentioned in any of CAR's responses. I also find it strange that no letter or correspondence has been offered to this committee for review by Norfolk and Dedham.

Norfolk and Dedham's response to the third complaint – this can be seen on Page 23 of Exhibit 1. I want to draw your attention to the company response, the last sentence. It says, "We are using our filed and approved billing plan on file with the MA DOI – most recently NFDG-133703937." Basically, they respond saying we have our own payment plan, and this is it.

Rich Dalton, on behalf of CAR, enters a no-finding in the second and third complaint stating that their response to these new complaints is the same response to the first complaint. In other words, ditto. Second and third complaint, that would be the same response, the way I understood it, which is odd because the response to the first complaint, hey, it complies with CMR 211 97.04. I don't think, in the second complaint, the word "cancellation notice" didn't even appear. There is no explanation by Rich Dalton nor CAR. It's just basically the same.

My third complaint, again, on Page 23, contends that Norfolk and Dedham's second cancellation in this matter is outside the scope of 211 CMR 97.04 by adding language that terminates a payment plan. If you would draw your attention to Exhibit 1, Page 79 through 80, guess what you'll find, 211 CMR 97.05. If you read through it, and at least all the company people will know, that 211 CMR 97.04 highlights very specific language that has to appear on any cancellation. The words are very specific. It leaves no room for interpretation. It basically says you must put these words on a cancellation. There's nothing listed in 211 CMR 97.04 that even remotely suggests that a company can terminate a payment plan via a cancellation. Therefore, CAR's determination on the first, second and third complaint can't be correct. There's no response in either complaint or in any correspondence with CAR that attempts to reconcile the language or 211 CMR 97.04 with allowing the termination

of a payment plan. It simply doesn't exist.

One of the oddest offenses that Norfolk and Dedham puts forth, as apparently instructed by CAR, if you believe them, is that an insured, the policyholder, can be in violation of CAR Rule 28. This argument is simply foolish. It's fantasy. How can an insured be in violation of a rule they are not party to?

If you would please turn your direction to Exhibit 1, Page 86 through 88. These are the Rules of Operation definitions. This comes right from CAR. As you look through the definitions, I see all kinds of familiar definitions, ARC, ARP, CAR, Commissioner, Eligible Risk, Member, Motor Vehicle, Plan of Operation. I see all kinds of definitions. Guess what you don't see? A definition for insured. There's no ARI – assigned risk insured. When I read the rules and look at the definitions that are most prominent, I see ARC and ARP – Assigned Risk Company and Assigned Risk Producer. Again, there is not one reference to insured. There is no complaint process established by CAR for an insured. Imagine how much trouble you have to go through to get here. There's no rule that allows the insured to appeal directly to CAR. I think most people here on the committee would agree, I hope, that the MAIP Rules were written to govern the companies and the producers, not the insureds. Therefore, they can't be in violation of the rule.

Rule 28 is clear. Payments will be spread over nine months, nine equal payments – nine equal payments over nine months. The remedy for the insured's breach of payment is a hefty \$29 fee and a chance to get another cancellation and additional fees. Nothing else is listed. It's very clear. It is obvious to a rational person that the rule never contemplates terminating a payment plan as it clearly specifies remedies for not paying. What's that again? A \$29 fee, a cancellation, and a chance for additional fees. To suggest anything is – you've left the realm of reality to suggest that which Norfolk and Dedham has.

Another interesting thing that Norfolk and Dedham does in their response is they admit to being in violation of the rule themselves. I draw your attention to Page 23 of Exhibit 1. You'll see it clearly states that they follow their own payment plan and identify that plan as NFDG-133703937. Let's look at that plan as filed with the DOI, Exhibit 1, Page 71. This is the plan that Norfolk and Dedham says in the complaint that they use. As you can clearly see, this is not the MAIP payment plan. One of the key provisions of MAIP Rule 28.C.2. is "each ARC will utilize the installment payment plan filed by CAR." This is not the same payment plan. You'll see when you look at Page 36. Page 36, guess what this is? CAR's filed payment plan. CAR's filed payment plan basically states that the installment payment plan offered to the insured – and this is important – is governed by the MAIP Rules of Operation. The installment plan offered to the insured is governed by the MAIP Rules of Operation.

By admitting to following their own payment plan, which is different than the MAIP, Norfolk and Dedham at the outstart clearly admits to being in

violation of Rule 28. What's more striking – and I think is much more important, frankly – is that when you look at the Norfolk and Dedham filing, when you look at CAR's filing, or, by the way, if you look at any of the bills Norfolk and Dedham sent my client – pick one, they're all the same. That's Exhibit 1, Page 6 through 15. What's more striking to me is what you don't see. What don't you see? You don't see any language in any of these documents that allows termination of the payment plan for any reason.

Norfolk and Dedham doesn't mention it in their DOI filing. They don't mention it on any of the bills they sent to my insured. They simply terminate the payment plan and point to CAR and say, hey, they said it was okay. This is it. Really? CAR's filing, again, in Exhibit 1, Page 36, clearly states the MAIP rules govern the installment payment plan. When you look at Rule 28, which I'm sure everyone is familiar with, did you see any mention allowing an ARC to terminate a payment plan? I don't. Not one mention. Oh, wait a minute, there is a provision that if the insured doesn't pay (inaudible). In light of this, it's hard to defend this practice in any meaningful way. I really hope you see they haven't and, frankly, nor has CAR. Further, this practice has no benefit to CAR or the ARC, the Assigned Risk Company, and has no place in the residual market.

One more thing, if you would draw your attention to Exhibit 1, Page 84, general provisions of CAR. Please note that it clearly states that the MAIP has been created to provide private passenger motor vehicle insurance to eligible risks who seek and are unable to obtain such insurance in the voluntary market. We're in a residual market. This is a residual market, a market of last resort. This practice, besides being in violation of the rule, simply has no place in the residual market. The majority of my MAIP clients reside in Roxbury and other urban areas. The client listed on this cancellation lives in Roxbury. The unintended consequence of Norfolk and Dedham's action and CAR's inability to regulate it at the complaint level is that it unfairly discriminates against my clients, most of which are of Hispanic and African American descent. I have been serving the Roxbury community for over 30 years, mostly through the residual market, in a business that was started in 1955 by my father. Guess what happens a lot to these people in the residual market. Guess? A lot of cancellations. To allow Norfolk and Dedham, or any company for that matter, to continue this practice will have a serious affect on my clients and the motoring public. By the way, the main focus is terminating the payment plan. The method is unimportant, right, in my opinion.

To summarize, the main provisions of Rule 28 are 1.) Each ARC will utilize the installment plan filed by CAR for MAIP business, 2.) The remaining balance, after the appropriate down payment, will be divided into nine equal monthly installments and 3.) The only provision provided in the rule for the failure of the insured to make a payment is a \$29 fee and a chance at another cancellation and additional fees. We also see through these documents that the MAIP Rules of Operation solely govern the installment payment plan and that 211 CMR 97.04 is very specific on what language can be included in a cancellation notice. Norfolk and

Dedham has already admitted to being in violation of the first provision of Rule 28 by offering their own payment plan. They're in violation of the second provision of Rule 28 by terminating that payment plan and offering something less than a nine-payment plan. As we've seen today, there is no provision in either the CAR filing or the Norfolk and Dedham filing to the DOI to terminate a plan. None of these filings, they be CAR filings, Norfolk and Dedham, anything, the rules, the CMR, nothing allows termination of a payment plan. Further, there is no provision in any other rule to do this. There's no notice besides all the rules, the CMRs, it's not even on the bill. They just figure they would tack it to a cancellation.

Ms. Doherty: Mr. Calianos, I'm going to ask you to sum up – you're saying the same thing over and over again.

Mr. Calianos: It's important. Norfolk and Dedham's only defense -- I'm going to repeat myself. I apologize. Norfolk and Dedham's only defense is that CAR says I can and the insured being in violation of Rule 28. In summary, I would implore the committee to apply reason and common sense to this situation and apply the MAIP rules as written and intended. Thank you.

Ms. Doherty: Thank you. Could we hear from Norfolk and Dedham?

Mr. Moone: Do you want me to go to the podium?

Ms. Doherty: If you would please, yes.

Mr. Moone: Sean Moone for Norfolk and Dedham. Thank you for taking your time today. First and foremost, I'd like to make clear that Norfolk and Dedham treats voluntary and assigned risk business in the same manner in terms of when we issue cancellation notices, what's required, consistency of those cancellations notices. Speaking to Mr. Calianos' allegation that we are in violation of 28.C. by – willingly acknowledging we're in violation of 28.C., that was a misstatement. It's saying that we're following our voluntary bill plan. What it was intended to convey was our voluntary treatment of policyholders and our assigned risk treatment is the same treatment. That's all we were trying to get across in that statement.

As far as language that appears on cancellation notices, we include all mandatory language as required by law in Massachusetts. In addition, we add language that says what will happen in the event of non-payment in the future, what would happen on the second notice, third notice, et cetera.

Most importantly here, Mr. Calianos continues to say that we've terminated a payment plan. We believe that the policyholder in this case has terminated the payment plan by depriving us of the ability to charge nine equal installments. Once they've missed a payment, we cannot keep them on nine equal payments by default. Some carriers will combine the two next payments together. Some companies, Norfolk and Dedham included, will collect the past due amount and then send out the next bill.

**Transcript of Meeting  
Market Review Committee**

- 11 -

**April 9, 2024**

The policyholder has gotten the payment plan off schedule, not the company. In our case, we will need to make sure that we collect premium by the conclusion of the term. Therefore, once we get to the third notice, we ask for the full balance of the premium. Usually, it happens much later in the policy term. We need to be able to renew these policies once they pay. We can't do that without collecting the past due amount.

Honestly, I'd like to keep it concise. Those were the arguments that Mr. Calianos presented – same treatment, voluntary/assigned risk, policyholder took themselves off of the installment plan, we can't bill nine equal installments once they do that. Are there any questions?

Ms. Doherty: Hold on one second. Let's have questions from the committee of either party. Any comments or questions from the committee to start?

Ms. Fitzpatrick: I just had one question for clarification. Are you using the CAR installment payment plan?

Mr. Moone: Yes, we are. In terms of the fees that are charged or proposed in 28.C., we're using those. The CAR payment plan is silent as to what happens upon taking oneself out of the payment plan by failing to pay.

Ms. Doherty: Any questions from the committee?

Mr. Winiker: How far back does each intent to cancel notice push back the payment plan?

Mr. Moone: We give a five-day grace period, cancel notice goes out, statutory 21 days. Once we receive that payment, our billing system, I believe, waits ten days before sending out its next invoice. So, you're talking about a couple of months.

Mr. Winiker: And that compounds itself?

Mr. Moone: It does.

Ms. Doherty: Any other questions? I have one, Mr. Calianos, if you could. Rule 28.C.2. states – and you went through that – the second sentence says the plan will require an initial deposit payment for new and renewal business. For new and renewal business. So, if the plan is asking for a billing system – I don't know if this was a new piece of business or renewal.

Mr. Calianos: It was new.

Ms. Doherty: It was a new piece of business. So, they set up the plan which the carriers are required to do, but it doesn't say the carriers are required to continue that plan.

Mr. Calianos: It says the payments will be distributed over nine equal payments.

Mr. Moone: If you don't mind. When we create a new business policy or a renewal

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policy, we create an installment schedule on that day. That day, say we had a deposit premium, there's a balance, spread it over nine equal payments for both new and renewal business. The schedule is created at inception. Once the payment goes off schedule, they can no longer be equal.

Mr. Calianos: My question to you is how does an insured take themselves off of the payment plan? You're offering the payment plan to the insured.

Mr. Moone: The insured didn't pay in accordance...

Mr. Torres: Excuse me, just as a point of order, could either of you direct your question to the Chair and then the Chair can direct the question?

Mr. Calianos: I apologize. To your point on the CAR Rule 28, it clearly states in the last sentence the remaining payments will be spread over nine equal payments.

Ms. Doherty: It does. But if they are not paid over nine months, does that – I'm not saying that you don't have a point. I'm saying that I don't know that the rule that you are referencing follows through to the circumstances you're talking about. The payment plan was set up. The insured was put on the payment plan. The insured didn't follow the payment plan. It doesn't say if the insured doesn't follow the payment plan then you don't have to continue to offer the payment plan. Yes, there's a \$29 late fee. But that could be charged after the fact. That could be taken out of any earned premium. There's nothing in the CAR rule that I could find – and if you could point to it, I would appreciate it – that says that the carrier is required to continually continue that. They've offered it. The customer didn't follow through with it. Now, they're saying after three tries, we want full payment.

Mr. Calianos: I think the rule is clear. By saying you will spread the payments over nine months means you're going to establish a payment plan, which they've done. I think by creating a remedy for not paying, they've established that. There is no rule – not even one word saying the termination of the payment plan can be contemplated.

Ms. Doherty: There isn't one that says it can and there isn't one that says it can't.

Mr. Calianos: Exactly. I would contend that Rule 28 clearly sets out the parameters, especially in the residual market, where a payment plan is established. That payment plan lives for the life of the policy. By the way, it's what other companies do. Roxbury, Dorchester and Mattapan have the highest CAR rates in Massachusetts. Their scheme, intentional or not intentional, is to shed those risks. Besides being discriminatory, the unintended consequence is they're going to shed the risk. My client happened to pay it. My client went into severe debt to pay it. I think it was \$2,000. Two working-class people from Roxbury. The whole notion of there's nothing in the rule that says they can't do it, no. There is a rule that establishes payment plans (inaudible). If you're in the voluntary market, no complaint. In the residual market, the rule is pretty clear. They intend to

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have nine equal payments. If their billing system can't keep up, that's not my insured's fault. Again, the notion that an insured can take themselves off of a payment plan is as foolish as saying they can violate Rule 28. I don't see how that makes any common sense.

Ms. Doherty:

Sarah?

Ms. Clemens:

I have a quick question. In terms of the payment plans and things of that nature, I assume it's consistent amongst any agency at any location. So, if a risk in, say, Sutton, Massachusetts has three non-payments, they're going to have the same treatment as someone in Roxbury.

Mr. Moone:

That's a question to me?

Ms. Clemens:

Yes.

Mr. Moone:

That's correct, same treatment.

Ms. Clemens:

There's a couple of things cited in the allegations and not necessarily the topic of today but being unfair towards Roxbury and things of that nature. I just wanted to understand is it consistent regardless of who the agent is, consistent of where they are, and whether they're MAIP or voluntary.

Mr. Moone:

That's statewide. I just would like to point out that there's no such thing as shedding risks. We're in a quota share environment. We're always going to have the same level of MAIP risks. That's not a scheme.

Mr. Calianos:

That's a great question. I can clearly say, no. Their customer service told me something completely different. Pull the phone records if you want. Their customer service clearly told me they regularly lowered my voluntary policies, but they will never do it on the MAIP. That's almost verbatim. To your point, when I said it the unintentional consequences – because a lot my clients are in these areas – Norfolk and Dedham doing this has the unintentional consequence of being discriminatory.

Ms. Doherty:

Norfolk and Dedham, question for you. Is this the only policy this has happened to?

Mr. Moone:

No.

Ms. Doherty:

Do you have any quantifying ability to...

Mr. Moone:

I don't have anything with me. I could go back and pull that data. It's a frequent occurrence both in the voluntary and assigned risk markets.

Ms. Doherty:

Is it a consistent practice?

Mr. Moone:

Always.

Ms. Doherty:

If the client ended up paying the policy in full, how was that aggrieved? Where's the grievance?



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- Mr. Calianos: You're asking how I'm aggrieved?
- Ms. Doherty: How have you been harmed because the customer paid in full?
- Mr. Calianos: I can reference the letter where I list all the grievances. They harmed my agency as far as reputation. They harmed my agency potentially as far as commission because this person, again, went into debt to pay. Most people wouldn't. Most people would drive without insurance. It harms the motoring public, too. There's no place for this in the residual market. Think about if you allow this to happen you open a pandora's box. That is not the intention of the MAIP Rules. Again, it's for the residual market and it's not the intention of Rule 28. I think the intention of Rule 28 is that the payment plan survives. There's no specific language but it certainly is intended whereas there's no other language anywhere that suggests otherwise.
- Ms. Doherty: Is there any consistency with other carriers that anyone would want to share?
- Mr. Willis: In your voluntary payment plan...
- Ms. Doherty: To whom are you addressing?
- Mr. Willis: Norfolk and Dedham. Does it address this? Does it say on the third cancellation notice that the insured will be required to pay the full balance?
- Mr. Moone: Yes, the language appears on the notices of cancellation. So, second notice, the language would appear. If this happens again...
- Mr. Willis: No, I mean in the payment plan that you filed with the Division of Insurance. Does it have that information?
- Mr. Moone: The Division of Insurance requires us to file fees. As far as procedures, there's no filing that we have that sets that.
- Mr. Calianos: Do have a copy of that? The answer is no. It also requires you to say what your payment plan is.
- Mr. Moone: So, our filing would describe that we have a 12-payment plan, a 10-payment plan, a 4-payment plan for certain lines of business. It covers all of our lines of business in Massachusetts, fees, installment fees, cancel notices, insufficient funds fees, but nothing in terms of what happens specifically given certain events.
- Ms. Clemens: I was asking when you file cancellation notices as part of your billing plan or your class plan, you usually include variable text...
- Mr. Moone: In terms of filing?
- Ms. Clemens: Yes.

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- Mr. Moone: I'm sorry, why don't you finish your question and then I'll answer it.
- Ms. Clemens: It was more in terms of when you file your cancellation notice, often times that's required, do you have that bracketed text in there to educate the DOI that it will be requiring it voluntary?
- Mr. Moone: I'll have to go back and check our filing.
- Mr. Calianos: I believe that's a no also.
- Ms. Doherty: Let him answer his question, okay. Thanks.
- Mr. Willis: Has the company received any complaints in the voluntary market about this practice...the Division of Insurance, the AG's office?
- Mr. Moone: No.
- Mr. Calianos: I think someone asked if this was a regular practice. As an agent, 30 years in the MAIP, no, it's not a regular practice. I don't know of any company...
- Ms. Doherty: We haven't had MAIP for 30 years.
- Mr. Calianos: No, but I've been doing it for 30 years.
- Ms. Doherty: I understand.
- Mr. Calianos: I've been doing this as long as the MAIP has been around. The answer is no. It is not a regular practice. There's no other company currently that does this.
- Ms. Doherty: Any other questions the committee has? I'm going to ask the committee if you can consider one of these two options and then I'd like to have a motion that either the Calianos Agency has established or has not established that by requiring that its policyholder issue payment in full of the remaining policy premium balance upon issuance of a third cancellation, Norfolk and Dedham violates Rule 28.C.2. of CAR's Rules of Operation. That would be one vote that we would need to take.
- The second is that either the Calianos Agency has or has not established that Norfolk and Dedham's practice of requiring that its policyholder issue payment in full of the remaining policy premium balance upon issuance of a third cancellation is unfair, unreasonable or improper.
- What is the committee thinking? There is where we talk amongst ourselves.
- Mr. Winiker: I'm Option 2. I think it's an unfair practice for the MAIP customer – again, voluntary world, no problems. MAIP is here for the financially challenged that have trouble getting and keeping insurance. This makes it very difficult for them to complete a full year if they have to come up with a lump sum mid-term for the full premium. Most carriers, and

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correct me if I'm wrong, but most will aggregate the unpaid balance amongst the remaining payments. Some are equally, some double up and then go back to the initial rate. But, in general, it's broken out so on the tenth month I think the policy is supposed to be paid off.

Ms. Clemens: We're an equity calculation so we charge what we need to get within equity for the upcoming period.

Mr. Winiker: The payments are spread out as far as you need to.

Ms. Clemens: But there might be an upfront in terms of getting back to equity.

Mr. Winiker: Exactly.

Ms. Clemens: Sheila, in that second statement, can you say who it's unfair to? Is it unfair to the agency? Is it unfair to the customer?

Ms. Doherty: It's just that it's an unfair, unreasonable or improper practice.

Ms. Fitzpatrick: Could read both of them again, Sheila?

Ms. Doherty: Sure, I'd be happy to. And the reference that I would suggest that you reference is Rule 28.C.2. Does this fall within the rules or doesn't fall within the rules or if the rule is silent, it doesn't mean that MAIP doesn't need to make some changes. But right now, as we sit, does this fall within it or not?

Either the Calianos Agency has or has not established that by requiring that its policyholders issue full payment of the remaining policy premium balance upon issuance of a third cancellation, Norfolk and Dedham violated Rule 28.C.2. of CAR's Rules of Operation. That's the first one. So, have they violated the rule, has it been established that they have or have not.

The second piece is either that the Calianos Agency has or has not established that Norfolk and Dedham's practice of requiring that its policyholders issue payment in full of the remaining policy premium balance upon issuance of a third cancellation notice is unfair, unreasonable and improper.

Ms. Hubley: I would just like to clarify that those are two questions that the committee needs to address, not either/or. In both cases, it's either/or he has established or has not established.

Ms. Doherty: Anybody have any input?

Mr. Willis: As far as the rule goes, I don't see – I'm just reading the words in the rule and I don't see how you can have this additional practice where it's not in the rule. It doesn't seem like that was the intent. There is a provision here. There is a remedy for late payment. I think there would have to be a rule change to allow this practice.

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- Ms. Doherty: Anybody else? How do you think it affects Rule 28?
- Ms. McConnell: Rule 28 doesn't say that the Assigned Risk Company will be required to spread the payments over nine equal installments. It says the insured will pay and the remaining balance will be paid over nine equal monthly installments. I think that's an important point. The onus is on the insured not on the carrier to spread the payments over nine equal installments. I don't know the intention of the language, but I think that language is important to note.
- Ms. Fitzpatrick: That's actually what I had highlighted too, exactly that, that the insured will pay that premium balance over nine equal monthly installments. I'd say that the rule is silent as to whether there's any limitation on what the carrier can or can't do once the insured fails to make the installment payment.
- Ms. Doherty: Anybody else?
- Ms. Clemens: I would just say it's a little bit tricky because a policyholder who fails to pay an installment premium by the applicable due date will be charged a late fee or cancellation. I think the ambiguity is that it doesn't talk about that it went into cancellation status per se. In many of our cases in our world there's a late payment and then there's a payment that goes into cancellation status. So, you have a five-day that might be late and then you have a one that went into cancellation which might be, you know, you already went past your waiver. I think there's ambiguity in the rule if you ask my opinion. I don't think it's as defined to a tee as we might like it on either side of the argument.
- Ms. Doherty: I'll weigh in on this. Although I can appreciate the issue that's been brought before the committee, I personally don't see that Rule 28.C.2. has been violated because I do think it's silent. Somebody sets up a payment plan and here's what you are expected to pay on your new or renewal business. If you don't pay it, I mean, there were three – it wasn't the first time. It wasn't the second time. It was the third time. So, there's nothing that says a company can't do that. I think if we don't, as an organization as CAR, if CAR does not want that to be the case, they need to put that in the rule, that at no time can you charge for the full balance or whatever. But it doesn't say that. There have been three opportunities to do that. It says the payment plan will be offered. It was offered to them on the first go-in. The customer didn't or couldn't. With all due respect, it's not geography anymore. It's the reality of all of us in every corner of the state that have people who are really struggling.
- I have a hard time hammering back at Norfolk and Dedham when the rule doesn't say you can't do it. Should it say it? If that's what CAR wants it to say, yes, but it doesn't say it.
- Mr. Winiker: I'm on the other side of that only because I deal with it daily.
- Ms. Doherty: I do, too. We all do.

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Mr. Winiker:

There is a remedy if the customer falls off the payment plan. It costs them additional money which then goes to the carrier. If they cancel all nine of them, it's another couple hundred dollars of income to the carrier, which is made to offset the cost of them having to send out the intent to cancels. These are people who typically are financially challenged. As much as I'm a businessman, I'd say, yes, cancel them all as soon as you can if they're not paying on time. The real reality of it is this is to service those people as best we can. By saying, alright, we know you're a higher risk, we know you can't pay on time all the time, I think it's our duty to take care of them more than saying, well, there's an unclear segment in here and you're going to get cancelled because you can't come up with \$3,000 or \$4,000 to finish off your payment six months earlier or whatever it comes out to. I think it's clear enough where there's a remedy for the person who pays slow on the carrier side. There's nothing in here that says if the customer doesn't pay – or it doesn't give a limit to how many times you can get that \$29 so it could be every single one. Although, if we do the math, there is no time in the policy period in order to collect all nine payments individually. So, there has to be consolidation of the payments where it doesn't add one to the end. They all have to end up at the last payment, the policy is paid for.

It's a question of do we terminate them, let them drive uninsured, or go right back and get assigned back to the same carriers and start all over again? Does it just keep going and going? Where does it end?

Ms. Doherty:

Sarah?

Ms. Clemens:

I was going to say that if we take it for the word of the language, and we say that the language is incredibly clear, any situation where we're charging to get caught up to speed or up to speed plus equity would be in violation of this because it literally says nine equal monthly payments. So, I would think that any carrier, any situation, where you have to charge double, like you said, would not be in line with this. I think that's where – for me – the ambiguity is because that's certainly not the intent of the language is to stronghold carriers as well to if you basically miss the monthly payment, based on this wording, you wouldn't even be able to charge for that. It would be just flat, monthly payments. That's all you'd be able to collect in those situations. That's where I think the language starts getting messy. It doesn't even allow for those if we want to take it for the word that it is stated as.

Ms. Fitzpatrick:

I think what we're hearing is the rules, going forward, we may want to tweak the rules to be more precise. But I don't know, because it is silent, that we have enough to say that this was a violation of anything in the rule because it's silent. It's sort of a hybrid between an installment issue and a cancellation issue, when can you cancel. There's nothing that says you can't advance the payments and to Sarah's point, literally, it doesn't work. I think, going forward, we might want to tweak the rule. The question I think before us is whether there's a violation of the rule as it's written. On the unfair piece, I think that Norfolk and Dedham has established that they do this consistently in the voluntary market and the residual market. So, I don't see any unfair practice there. They said that they're following

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the CAR plan. So, I don't see any unfair practice there. I think the rule is unclear such that I don't know that we can find that there's a violation of the rule as written. I just think, going forward, it needs to be reworked.

Ms. Doherty: Before we take a motion and a vote, if nothing else, what's been brought to the attention of CAR certainly needs to be addressed going forward and clarified. For that, I think there is a debt of gratitude to the individual bringing the complaint. I don't know how we're all going to vote, but I think it needs to be clearer. Can I get a motion?

Ms. Bodenstab-Krynicky: I would make a motion of no on the violation of the rule. After I reviewed numbers and different things myself, even as an agent, I think they were fairly stretching it out and trying to get into the nine and covering that.

Ms. Doherty: Would your motion be that the Calianos Agency has not established that requiring the policyholder to issue payment was in violation of Rule 28.C.2.?

Ms. Bodenstab-Krynicky: Yes. I would like to make that motion.

Ms. Doherty: Anyone want to second that?

Ms. McConnell: Second.

Ms. Doherty: Any discussion on that motion, that the agency has not established that it was it was in violation of...

Mr. Calianos: Can I just say one more thing before you vote?

Ms. Doherty: Very quickly because we're going to vote.

Mr. Calianos: The term "will" establishes an obligation. If the term "can" was there, I'd understand that argument.

Ms. Doherty: Are you ready to vote? All those in favor of the motion that the Calianos Agency has not established that Norfolk and Dedham has violated Rule 28.C.2., all those in favor of that, please raise one hand.

*(Please note that Ms. Bodenstab-Krynicky, Ms. Clemens, Ms. Fitzpatrick, Ms. McConnell and Ms. Doherty voted in favor of the motion.)*

Ms. Doherty: All those opposed.

*(Please note that Mr. Willis and Mr. Winiker opposed the motion)*

Ms. Doherty: Motion carries. On the second, please, could I have a motion? Would it be helpful to have somebody have this to read to make the motion?

Ms. Bodenstab-Krynicky: I'd make the motion that the Calianos Agency has not established that Norfolk and Dedham's practice of requiring that its policyholders issue payment in full of the remaining policy premium balance upon issuance

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of a third cancellation notice is unfair, unreasonable or improper.

Ms. Doherty: Do I have a second?

Ms. Fitzpatrick: Second.

Ms. Doherty: All those in favor of the motion, please raise one hand.

*(Please note that Ms. Bodestab-Krynicky, Ms. Clemens, Ms. Fitzpatrick, Ms. McConnell and Ms. Doherty voted in favor of the motion.)*

Ms. Doherty: Those opposed.

*(Please note that Mr. Willis and Mr. Winiker opposed the motion)*

Ms. Doherty: Thank you. The motion carries. Could I get a consensus from the committee that we direct maybe the MAIP subcommittee to take a look at this and maybe recommend that they make some changes? I don't know if it's proper that we do that, but we're going to do that.

Ms. Clemens: As an ARC, I would like consistency across. It doesn't benefit us, to be fair, for Norfolk and Dedham to be doing this and not us to be doing this. Just to be clear on that. I would encourage this not only from an agency perspective, a customer perspective, but also from a carrier perspective. I think consistency is key.

Ms. Fitzpatrick: And the realities of the climate now, too. I think it's a good opportunity to review what direction we want to go in.

Ms. Doherty: Does anybody have an objection to doing that?

Ms. Rosenberg: Sheila, I just need to read one item before you adjourn.

Ms. Doherty: Go ahead.

Ms. Rosenberg: Mr. Calianos, CAR will confirm the decision of the Market Review Committee in writing via email. This decision may be appealed to CAR's Governing Committee pursuant to Rule 40 – Review and Appeal of CAR's Rules of Operation upon submission of a Request for Review/Relief form within 30 days of being notified of the Market Review Committee's decision.

Ms. Doherty: Could I have a motion to adjourn?

Ms. Clemens: Motion.

Ms. Doherty: Second?

Mr. Winiker: Second.

Ms. Doherty: All those in favor?

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All Committee Members: Aye.

Ms. Doherty: Opposed? Motion carries. Thank you everybody.

*(Meeting ended at 1:43 p.m.)*





THE COMMONWEALTH OF MASSACHUSETTS  
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April 9, 2024

Jason Calianos  
Calianos Insurance Agency  
21 Roxbury Street  
Boston, MA 02119

**Re: CAR Market Review Committee Docket MR24.04**

Dear Mr. Calianos,

Thank you for providing us with a copy of your Request for Relief under CAR MAIP Rule 40. We have been reviewing Norfolk and Dedham's alleged practice of demanding an accelerated payment of unearned premium for certain MAIP policyholders. As we understand it, the policyholder at issue in your Rule 40 Request was on a payment plan for his insurance premium. He was late with two payments over the course of the policy, each time paying the missed payment (and a \$29 fee) during the 20-day cure period provided in the cancellation notice. On the third late payment, he was advised, via a cancellation notice, that he was required to pay the full remaining premium within twenty (20) days, despite the fact that these sums were not due under the installment plan.

CAR Rule 28(c)(2) indicates that each assigned risk carrier will use the CAR installment plan for MAIP Business. This plan, and the relevant CAR Rules, do not authorize a carrier to demand accelerated payment of policy premium. Indeed, CAR Rule 28(c)(2) is explicit that a policyholder can pay premium via nine (9) months of installments. If a policyholder misses a payment, the consequence is that the policy may be cancelled after twenty (20) days unless the policyholder delivers the missing payment along with the \$29 fee. The carrier is not authorized to demand anything else.

The CAR Rules provide sufficient protection for the carriers, who already receive a downpayment that protects them financially when an installment plan policyholder is late paying an installment. There is nothing in the regulations or CAR Rules that authorizes a carrier to require the payment of all the unearned premium in the situation noted above.<sup>1</sup> Indeed, it would seem that even if this were a commercial policy, where CAR Rules may allow servicing carriers

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<sup>1</sup> CAR Rules allow carriers to require full premium payment up-front where a policyholder already had a policy cancelled in the past two years. As we understand it, in the present case, the policyholder had not previously been cancelled. Receiving a notice of cancellation (and curing the defect) is not the same thing as actually being cancelled.

to use their own filed plans to set installment rules, there would be no basis for the accelerated payments demanded here. The payment would still need to be explicitly authorized by the carrier's plan filed with the Commissioner.

Massachusetts law bars the cancellation of a policyholder who has caught up with his payments within a cure period. *See* G.L. c. 175, sec. 113A (“the cancellation will not be effective if the insured pays the full amount of such deficiency on or prior to the effective date of the cancellation”). *See also* 211 CMR 97(2)(a). An insurer cannot require additional sums and cannot threaten to cancel consumers who fail to pay these unauthorized amounts.

Please keep us apprised of developments in this matter.

Sincerely,



Glenn Kaplan, Division Chief  
Insurance & Financial Services Division



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April 23, 2024

Commonwealth Automobile Reinsurers  
Governing Committee Review Panel  
101 Arch Street, Suite 400  
Boston, MA 02110

**Re: Governing Committee Review Panel's Review of CAR Market Review Committee  
Docket MR24.04**

Dear Governing Committee Review Panel members,

We understand that the Governing Committee Review Panel will be assessing agent Jason Calianos' Complaint, first heard in Market Review Committee Docket MR24.04. The Market Review Committee appears to have ruled that CAR Rule 28 allows Norfolk & Dedham to accelerate all unearned premiums due under a MAIP consumer's insurance policy. While there is no written decision, the transcript from Mr. Calianos' hearing indicates at least some Committee members believe that a consumer who is late with an installment payment effectively de-enrolls from the CAR installment plan, and then owes the full annual premium immediately.<sup>1</sup>

Rule 28 does say "the insured will pay that premium balance over nine equal monthly installments." However, this does not signify that a consumer will be de-enrolled if the consumer is late with a payment. Indeed, such an interpretation would mean that any late payment would result in de-enrollment. But, Norfolk & Dedham's own notices to the consumer in this case belie this conclusion. Norfolk & Dedham responded to the consumer's first late payment, not by de-enrolling him, but by applying the plan's late fee and informing him that he would be cancelled if he did not pay his late installment within 20 days. Norfolk & Dedham did the same thing with the second belated payment in this matter. In both instances, the consumer sent in the late payment, bringing himself current on the debt, and continued on the installment plan. If being late with a payment meant a consumer was no longer on the installment plan, this would not have been possible. Moreover, there is nothing in Rule 28 allowing Norfolk & Dedham to treat the third belated payment any differently than the other two belated payments. In each case, the consumer must pay a late fee of \$29 and is given a deadline by which the consumer must send the payment to the carrier or be cancelled. Rule 28(C)(4); 211 CMR 97(2)(a); G.L. c. 175, sec. 113A.

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<sup>1</sup> See Transcript of April 9, 2024 Market Review Committee Hearing at 16-19. This was also the position taken by Norfolk & Dedham during the hearing. Transcript at 9-10.

The CAR installment plan does not authorize a carrier to accelerate the due date for unearned premium, and there would be no reason to do so. The insured must bring himself current after missing an installment deadline, and MAIP policies already require a substantial up-front deposit which covers any payment delay. Moreover, there are explicit standards on how to handle late payments: charge a fee and give a set period of time within which the late installment must be paid. We refer you to our prior letter to Jason Calianos, attached hereto, which deals with this issue in more detail. In sum, Massachusetts law bars the cancellation of a policyholder who has caught up with his payments within a cure period. *See* G.L. c. 175, sec. 113A (“the cancellation will not be effective if the insured pays the full amount of such deficiency on or prior to the effective date of the cancellation”). *See also* 211 CMR 97(2)(a). An insurer cannot require additional sums and cannot threaten to cancel consumers who fail to pay these unauthorized amounts.

Thank you for your review of this issue.

Sincerely,



Glenn Kaplan, Division Chief  
Insurance & Financial Services Division

Encl.

April 23, 2024

Governing Committee  
Commonwealth Automobile Reinsurers  
101 Arch Street, Suite 400  
Boston, MA 02110

RE: April 30, 2024 Governance Committee Meeting  
Review of April 9, 2024 Decision of the Market Review Committee

Dear Members:

Thank you for your time and consideration of this matter presented to you pursuant to Jason Calianos Insurance Agency's Rule 40 Request appealing the April 9, 2024 decision of the Market Review Committee that Norfolk & Dedham Mutual Fire Insurance Company's ("N&D") practice of requiring policyholders to make payment in full of the remaining policy premium balance upon issuance of a third cancellation notice for non-payment does not violate Rule 28.C.2 and is not unfair, unreasonable or improper.

N&D respectfully refers the Governance Committee to its prior written submission to the Market Review Committee as well as the transcript of the April 9, 2024 hearing. The Market Review Committee acknowledged the importance of the issues presented and took careful consideration of them in concluding that N&D practice is not in violation of CAR Rules and is not unfair, unreasonable or improper. The Committee appropriately noted that CAR Rules do not specifically address procedures that should be applied when an insured does not adhere to the installment payment plan provided by the carrier as required by Rule 28 C.2

N&D's practice of requiring payment of the full premium on the third cancellation notice has long been in place for policies placed through the MAIP as well as in the voluntary market. Contrary to complainant's assertions, N&D does not discriminate between the MAIP and the voluntary market and its practice is not an attempt to "shed risks" contrary to Mr. Calianos' assertions. Policies placed through the MAIP are assigned on a quota-sharing basis. Further, policies assigned through the MAIP and subsequently canceled for non-payment are reassigned to the same carrier with the requirement to remit full payment for the new policy term in addition to earned premium due from the canceled policy term.

As the Committee acknowledged, once an insured misses a payment, the full premium can no longer be paid in nine equal installments and still be paid in full by renewal – thus the payment plan offered becomes an impossibility. N&D's practice is one method of obtaining full payment by the time of renewal. It is important to note that N&D does not demand anything beyond the installment(s) missed until a third missed payment. As discussed by the Committee, other carriers demand the missed payment along with the next payment to avoid cancelation as early as the first notice and/or missed payment. While

some may debate the merits of either practice, neither is in violation of CAR Rules or Massachusetts law.<sup>1</sup>

CAR advised N&D that since CAR Rules do not specifically address cancel notices, insurers are not precluded from adopting the procedure of requiring full payment upon a third notice of cancellation. The Market Review Committee discussed that CAR may wish to amend the rules. N&D recognizes the difficulty and complexity of the issue of making insurance accessible in today's market where inflation and increased costs of repair continue to drive up rates, and the difficulty of CAR's task in implementing rules, approved by the Division of Insurance, which govern the MAIP. N&D will respectfully defer to and comply with any change to the Rules or previously accepted practices.

Thank you for your time and attention on this matter.

Sincerely,



Michele C. Sears, Esq.  
General Counsel & Corporate Secretary

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<sup>1</sup> Mr. Calianos submitted with his notice of appeal a letter from Glenn Kaplan of the Attorney General's office not previously provided to N&D which argues that requiring payment of anything beyond the installment payment missed and the fee in a notice of cancellation is a violation of M.G.L. c. 175 §113A. However, such a reading of Section 113A also exposes the impossibility of continuing on the payment plan of nine equal installments in compliance with CAR Rule 28.C.2 where the insured fails to make an installment payment when due. We submit that Section 113A addresses the required content of a notice of cancellation, the purpose of which is to make clear to the insured what is owed if not paid prior to the effective date of cancellation, but does not serve to limit what an insurer or CAR Rules may require in the event an insured does not adhere to a payment plan offered.