

# COMMONWEALTH AUTOMOBILE REINSURERS

100 SUMMER STREET – BOSTON, MASSACHUSETTS 02110

TEL: 617-338-4000 FAX: 617-338-5422 www.commauto.com

**RALPH A. IANNACO**  
President

**MICHAEL J. TROVATO**  
Executive VP & Treasurer

## RECORDS OF MEETING

### MARKET REVIEW COMMITTEE

A meeting of the Market Review Committee was held at the offices of Commonwealth Automobile Reinsurers, 100 Summer Street, Boston on

**WEDNESDAY, JULY 9, 2003 AT 10:00 A.M.**

Members present -

Mr. Charles I. Boynton, III – Chairman  
Boynton Insurance Agency, Inc.

Ms. Nancy Z. Bender	Nancy Z. Bender Insurance Agency, Inc.
Mr. David H. Cochrane	The Commerce Insurance Company
Mr. Daniel F. Crimmins	Safety Insurance Company
Mr. John B. Doherty	Barry & McHugh Insurance Agency, Inc.
Mr. Daniel J. Foley, Jr.*	McCormick & Sons Insurance Agency, Inc.
Mr. Francis D. Gibbons	O'Brien & Gibbons Insurance Center
Mr. Sumner D. Gilman	Economy Insurance Agency, Inc.
Ms. Paula W. Gold	Plymouth Rock Assurance Corporation
Mr. John F. Kittel	Arbella Mutual Insurance Company
Mr. Douglas R. Long	Liberty Mutual Group
Mr. Christopher Matherly**	The Premier Insurance Company of Mass.
Mr. Edward C. Ruhl	The Hanover Insurance Company
Ms. Ann C. Rymaszewicz***	Louis M. Xifaras Insurance Agency, Inc.
Mr. Mark R. Silva	Benson, Young & Downs Ins. Agency, Inc.
Mr. David J. Symock****	OneBeacon Insurance
Mr. William J. Whitebone	Quincy Mutual Fire Insurance Company

Substituted for Mr. David J. McCormick\*  
Substituted for Ms. Susan K. Scott\*\*  
Substituted for Mr. Louis M. Xifaras\*\*\*  
Substituted for Mr. Robert J. Cordner\*\*\*\*

Commonwealth Automobile Reinsurers present –

Mr. Ralph A. Iannaco	President
Mr. Joseph J. Maher	Vice President, General Counsel & Secretary
Mr. Michael J. Trovato	Executive Vice President and Treasurer
Mr. John D. Metcalfe	Director of Administration & Market Relations
Mr. Timothy J. Costain	Market Relations Manager
Ms. Adrienne Donovan	Senior Administrative Support Assistant

Also present –

Mr. Jeffery Winiker	A Affordable Insurance Agency
Mr. Mark Winiker	
Mr. Robert Suglia	Amica Mutual Insurance Company
Mr. Donald Barber	Arbella Mutual Insurance Company
Mr. Steven Slattery	
Mr. Earl Sylvester	
Timothy R. Loff, Esq.	Attorney At Law
Mr. Patrick McDonald	The Commerce Insurance Company
Mr. David Reynolds	
Ms. Belkis Salas – Jordan	Family Discount Insurance Agency
Mr. Alan Jordan	
Edward J. Donahue, Esq.	Ferriter, Scobbo, & Rodophele P.C.
Barnett D. Ovrut, Esq.	
Ms. Joanne Borden	Fireman’s Fund Insurance Company
Mr. Kenneth E. Flynn	Flynn Insurance Agency, Inc.
Owen Gallagher, Esq.	Gallagher & Associates
Ms. Julie Yharra	
Mr. James Herrick	The Hanover Insurance Company
Richard F. Wholley, Esq.	Law Offices of Richard F. Wholley
Senator Jarrett T. Barrios	Massachusetts Senate
Ms. Tiffany Clark	
Mr. David Gracora	
Roberta R. Fitzpatrick, Esq.	Mintz, Levin, Cohn, Ferris, Glovsky & Popeo
Mr. James Hayes	Norfolk & Dedham Group

Also present (continued) –

Mr. Charles Alley	Pilgrim Insurance Company
Mr. Robert Barrows Mr. Kenneth Willis	Plymouth Rock Assurance Corporation
Mr. Paul Coleman	Safety Insurance Company
Mr. John Butts Mr. Michael Butts	Yankee Insurance Agency

Market Review Committee Chairman, Mr. Charles Boynton, called the meeting to order at 10:00 a.m.

**MR**

**03.01 Records of Previous Meeting**

**A motion was made by Mr. Sumner Gilman and seconded by Mr. David Symock to approve the Records of the Market Review Committee meeting of June 17, 2003.**

**The motion passed on a unanimous vote.**

**MR**

**03.14 Broadway Plaza Insurance Agency/OneBeacon Insurance**

A Request for Review was submitted by the Broadway Plaza Insurance Agency seeking relief relative to the termination of the agency's Exclusive Representative Producer appointment by OneBeacon Insurance for violations of CAR Rule 14. The company alleges that the agency has been charging customers unauthorized service fees.

Attorney Richard Wholley, representing the Broadway Plaza Insurance Agency, indicated that he had spoken with counsel for OneBeacon and they had agreed jointly to hold the agency's ERP appointment termination in abeyance and request a continuance of the matter until the next Market Review Committee meeting.

**A motion was made by Ms. Nancy Bender and seconded by Mr. Sumner Gilman to continue the matter to the next meeting of the Market Review Committee.**

**The motion passed on a unanimous vote.**

**MR**

**03.15 Flynn Insurance Agency**

A Request for Review was submitted by the Flynn Insurance Agency, Inc, for a change of private passenger Servicing Carrier. The agency was recently assigned as an Exclusive Representative Producer to The Commerce Insurance Company and is seeking reassignment to a Servicing Carrier that will accommodate a payroll deduction plan for the agency's insureds.

MR

**03.15 Flynn Insurance Agency (continued)**

As a courtesy to the parties, Mr. Sumner Gilman disclosed that through his premium finance company, he maintains a business relationship with Arbella Mutual Insurance Company and Attorney Owen Gallagher. He offered to withdraw from the matter if any of the parties objected to his participation.

As a courtesy to the parties Mr. Edward Ruhl advised that The Hanover Insurance Company maintains a business relationship with Attorney Owen Gallagher and offered to withdraw from the matter if either party objected to his participation.

Neither party objected to the participation of Messrs. Gilman or Ruhl in the matter.

Messrs. Kittel and Cochrane indicated that they would not participate in the matter.

Attorney Owen Gallagher, representing the Flynn Insurance Agency, requested the Committee waive the five-day rule and allow his submission of July 3, 2003 to be considered. He indicated that Arbella Mutual Insurance Company, the agency's former voluntary Servicing Carrier, did not object to the submission of the material. (Docket #03.15, Exhibit #5)

**A motion was made by Mr. Sumner Gilman and seconded by Mr. David Symock to waive the five day rule and allow Attorney Gallagher's submission.**

**The motion passed on a unanimous vote.**

Mr. Gallagher explained that Mr. Flynn entered into a unique situation with Arbella under MGL Ch. 180, Sec. 17J, which allows unionized state employees to authorize the state comptroller to deduct premium for insurance from their payroll. Mr. Gallagher indicated that Arbella terminated its voluntary agreement with the Flynn Agency because of its high loss ratio and after unsuccessfully seeking another voluntary Servicing Carrier the agency was assigned by CAR as an ERP to The Commerce Insurance Company. According to Mr. Gallagher, Commerce is unwilling to offer a payroll deduction option to insureds of the Flynn Agency. Mr. Gallagher explained that under state law, a payroll deduction can only be cancelled by the insured providing a 60-day written notice, adding that Mr. Flynn will continue to receive the premium for Arbella policies as specified by the state comptroller which will bind Arbella to these insureds. Mr. Gallagher requested that the Committee reassign the Flynn Agency in order to avoid market disruption relating to Arbella's intent to distribute non-renewal notices to these insureds.

Responding to questions from the Committee, Mr. Flynn indicated that he had not yet informed his insureds about the termination of his voluntary agreement with Arbella and subsequent lack of a payroll deduction arrangement with Commerce, due to the unresolved nature of the matter. He added that he wanted to seek resolution of the matter before contacting the state comptroller about possible changes to the payroll deduction arrangement.

The Commerce Insurance Company representative Patrick McDonald indicated that Commerce does offer a payroll deduction plan based upon the eligibility of certain groups where premium payments are made directly to the company and not through the broker of record. Mr. McDonald also indicated that Commerce's payment plan requires 30% down and seven monthly payments, which differs from the Flynn Agency's current arrangement, which requires no down payment and twelve monthly installments thereafter.

**MR**

**03.15 Flynn Insurance Agency (continued)**

Attorney Roberta Fitzpatrick, representing Arbella Mutual Insurance Company, clarified that the unionized state employee's payroll deduction benefit is offered through the Flynn Agency, not the Servicing Carrier. She said that the agency essentially maintains an agency bill arrangement with the company and noted that the state comptroller is not interested in who underwrites the policies because the premium is allocated to Mr. Flynn under his tax identification number. Ms. Fitzpatrick indicated that she had been in contact with the state comptroller and was advised that in the event of a change in insurers, Mr. Flynn should notify his office and the unions availing themselves of the payroll deduction. She indicated that once this was done, Arbella would remain flexible and would be willing to extend the date for the replacement of existing Arbella policies with Commerce.

Senator Jarrett Barrios, spoke in support of the Flynn Agency's position, stating that the current payroll deduction arrangement provided through the agency offers a tremendous convenience for union employees, many of whom survive on the lower end of the wage scale. He explained that no down payment and twelve monthly installments, enables many of the union members to afford automobile insurance where they otherwise might be unable to do so. He asked that for the sake of his constituents, the current payroll deduction arrangement remain status quo, regardless of the Servicing Carrier.

The Committee discussed the differences between the Flynn Agency's current payroll deduction arrangement with the unionized employees and the standard agency bill plan that Commerce indicated it would be willing to offer the agency. The Committee noted that Mr. Flynn hadn't yet contacted the state comptroller's office to investigate alternatives to the current payroll deduction plan. There was agreement among the members that CAR could not force any Servicing Carrier to offer a billing plan or program that is not required under CAR Rules. The Committee determined that the agency has had an agency bill arrangement with Arbella and the Committee questioned why Mr. Flynn could not utilize a standard agency bill plan with Commerce. The Committee concluded that the agency should not be reassigned from Commerce to another Servicing Carrier solely on the basis of its arrangement with the unionized state employees.

**Following further discussion, a motion was made by Ms. Paula Gold and seconded by Mr. Daniel Crimmins to deny Mr. Flynn's request for a change in Servicing Carrier.**

**The motion passed 12 in favor, and 1 opposed.**

**MR**

**03.16 Family Discount Insurance Agency/The Commerce Insurance Company**

A Request for Review was submitted by the Family Discount Insurance Agency seeking relief relative to the termination of the agency's Exclusive Representative Producer appointment by The Commerce Insurance Company for failure to maintain regular business hours at the office where the agency was appointed.

Messrs. Gilman, Kittel, and Cochrane indicated that they would not participate in the matter.

Attorney Richard Wholley, representing Family Discount Insurance Agency, indicated that since the agency was appointed as an ERP with The Commerce Insurance Company in February 2003, it had produced 142 private passenger exposures, the majority of which were written within the first 90 days of doing business. Mr. Wholley explained that Mrs. Belkis Jordan, the agency's principal, was in the

MR

**03.16 Family Discount Insurance Agency/The Commerce Insurance Company (continued)**

advanced stages of pregnancy when she met with representatives of Commerce in April. He contended that it was verbally approved by company representatives for Mrs. Jordan to cut back on her daily hours at the agency to accommodate her pregnancy. Mr. Wholley indicated the Mrs. Jordan has returned from maternity leave and is back at the agency full time.

Mr. Patrick McDonald, representing The Commerce Insurance Company, requested that the Committee waive the five-day rule and allow his submission dated July 1, 2003 to be distributed. He noted that neither Mr. Wholley, nor representatives from Family Discount Insurance Agency objected to the submission as they had previously received it. (Docket #03.16, Exhibit #2)

**A motion was made by Mr. Daniel Crimmins and seconded by Mr. William Whitebone to allow Mr. Patrick McDonald's submission.**

**The motion passed on a unanimous vote.**

Following the review of the material, Mr. McDonald indicated that Mrs. Jordan is the only licensed employee of the agency and was present only once out of a total of thirteen agency visits by Commerce marketing representatives. He pointed out that none of the policies written by this agency to date are for vehicles garaged in Springfield, the designated market need area where the agency was appointed. Mr. McDonald indicated that he had learned that Mrs. Jordan is about to acquire an agency location in the Lowell area even though she is the only licensed person in the agency. Mr. McDonald said that Commerce is merely attempting to ensure compliance with CAR rules by the agency relative to the maintenance of regular business hours.

Mr. Wholley countered that the issue of a second office was not part of Commerce's termination action and should not be considered by the Committee in its review. He asserted that Commerce would prefer to be rid of his client and objected to the introduction of additional matters unrelated to the termination.

The Committee agreed that there appears to be a question about the agency's focus in Springfield, but concern was expressed about the introduction of new information pursuant to the Committee's waiver of the five-day rule for the submission of documentation. There was sentiment that Mr. Wholley should be given an opportunity to submit a response to the additional allegations cited by Mr. McDonald.

**A motion was made by Ms. Nancy Bender and seconded by Mr. Mark Silva to continue the matter until the next meeting of the Market Review Committee to allow time for the submission of additional material by the parties and to hold the agency's appointment termination in abeyance until that time.**

**The motion passed on a unanimous vote.**

MR

**03.17 Yankee Insurance Agency/Arbella Mutual Insurance Company**

A Request for Review was submitted by the Yankee Insurance Agency seeking relief relative to the termination of the agency's Exclusive Representative Producer appointment by the

MR

**03.17 Yankee Insurance Agency/Arbella Mutual Insurance Company (continued)**

Arbella Mutual Insurance Company for alleged violations of CAR Rule 14, B, 1, requiring the producer to verify that the applicant has not been in default of any motor vehicle insurance premiums in the past twelve months.

As a courtesy to the parties, Mr. Sumner Gilman disclosed that through his premium finance company, he maintains a business relationship with Arbella Mutual Insurance Company, Attorney Timothy Loff, Yankee Insurance Agency, and Attorney Roberta Fitzpatrick. He offered to withdraw from the matter if any of the parties objected to his participation.

None of the parties objected to the participation of Mr. Gilman.

Mr. John Kittel indicated he would not participate in the matter.

Attorney Timothy Loff, representing the Yankee Insurance Agency, gave a brief history of the agency, stating that they have served the inner city community of Dorchester for 25 years and have developed a substantial book of business. Mr. Loff cited Arbella's termination letter based on eleven instances in the last eighteen months of alleged failure to collect proper down payments or verify and collect earned premium. He explained that in several of the instances the agency was unable to obtain the proper information or obtained incorrect information on the policies in question due to faulty software used to access the Registry of Motor Vehicle's online system. According to Mr. Loff and agency representatives, upgrades to the RMV's and the agency's software have enhanced system access, which has made accessed information more reliable. Mr. Loff indicated that there were several other instances where Registry system information was updated by a carrier after the agency had inquired, but before Arbella received the applications. Mr. Loff charged that Arbella's procedures for the collection of down payments and earned premium changed four times over the past four years. Mr. Loff acknowledged that some of the errors cited by Arbella were legitimate, but added that there was no pattern of abuse or mismanagement justifying the termination.

Attorney Roberta Fitzpatrick, representing Arbella Mutual Insurance Company, noted the documented violations by the agency, indicating that there is a pattern of disregard for the established rules and procedures and Arbella submits that the termination is warranted under CAR rules. She said that the company has not changed its collection procedures four times in four years, but had reinforced existing company policy and procedures. Ms. Fitzpatrick indicated that the company had issued numerous warnings to the agency preceding its termination action.

The Committee considered the agency's longstanding presence in the Dorchester community and the fact that it does not have a lengthy history of CAR rule violations. The size of the agency's book of business relative to the number of verifiable violations was also considered by the Committee, in addition to steps taken at the agency level to ensure more accurate determination of premiums owed. Based on the information presented, the Committee did not believe that the violations warranted termination of the agency's ERP appointment.

**A motion was made by Mr. Sumner Gilman and seconded by Mr. Francis Gibbons to uphold the agency's appeal and place them on a six month probationary period with the condition that copies of the appropriate RMV screens, reflecting an insured's earned premium status, accompany new business applications forwarded to the company.**

**The motion passed on a unanimous vote.**

**MR**

**03.18 A Affordable Insurance Agency/Amica Mutual Insurance Company**

A Request for Review was submitted by the A Affordable Insurance Agency seeking relief relative to the actions of Amica Mutual Insurance Company in allegedly refusing to issue the agency an additional certification stamp. The agency also requested that the Committee consider its request for \$15.00 per exposure for business garaged in communities which were reassigned, as a result of two-party agreements, to Servicing Carriers other than Amica.

As a courtesy to the parties, Mr. Sumner Gilman disclosed that through his premium finance company, he maintains a business relationship with Amica Mutual Insurance Company, Attorney Richard Wholley, and A Affordable Insurance Agency, Inc. He offered to withdraw from the matter if any of the parties objected to his participation.

None of the parties objected to the participation of Mr. Gilman.

CAR Counsel, Joseph Maher, noted that due to the relief granted to Amica in another matter there are a number of Servicing Carriers within the agency and unless there is a question of whether their particular relationship would impact in the outcome of this matter, they would not necessarily have to recuse.

Mr. John Kittel indicated he would not participate in the matter

Ms. Paula Gold indicated she would not participate in the matter.

Attorney Richard Wholley, representing A Affordable Insurance Agency, Inc., advised that the issue involving the issuance of an additional certification stamp pursuant to A Affordable pending acquisition of another agency had been resolved. He explained that the parties had agreed that once the purchase has been executed, a new stamp would be issued.

With respect to the issue of the agency's request for \$15.00 per exposure for business that was reassigned as a result of two-party agreements, Mr. Wholley contended that the agency was forced to seek other Servicing Carriers to take on a portion of the agency's business by virtue of Amica's request for private passenger subscription relief in accordance with CAR Rule 13, C, 2. He said that the overall process of reassignment of business to Servicing Carriers other than Amica, whether by two party agreement or random reassignment by CAR, was not voluntarily initiated by A Affordable and the agency should be compensated either way.

Attorney Edward Donahue, representing Amica Mutual Insurance Company, indicated that the rule's purpose was to allow oversubscribed Servicing Carriers to obtain relief, noting that the two-party agreement component of the rule is voluntary on the part of the agency and recipient Servicing Carrier. He also noted the compensation received by A Affordable pursuant to the two-party agreement far exceeded the \$15.00 per risk requested by the agency. Mr. Donahue said that the agency should not be compensated twice for the business in question, adding that it was clearly not the intent of Rule 13, C, 2. Mr. Donahue advised that the amount of compensation in question exceeds \$100,000.

During discussion, the majority of Committee members agreed with the understanding that the intent of Rule 13, C, 2, was to compensate ERPs for randomly reassigned business and to the extent that agencies subject to Servicing Carrier oversubscription relief can make their own deals to end up with the Servicing Carrier(s) of their choice, the Servicing Carrier petitioning for relief should not be required to compensate them. There was some contrary sentiment expressed for the unique situation A Affordable



**MR**

**03.18 A Affordable Insurance Agency/Amica Mutual Insurance Company (continued)**

has found itself in and the belief that the agency did not voluntarily choose to have its book of business fragmented among several Servicing Carriers.

**Following discussion, a motion was made by Mr. David Cochrane and seconded by Mr. Douglas Long to deny A Affordable's request that Amica be directed to pay the agency \$15.00 per exposure for business which was reassigned through two-party agreements to other Servicing Carriers.**

**The motion passed with 10 in favor and 4 opposed.**

There being no further business, **a motion was made by Mr. Sumner Gilman and seconded by Ms. Nancy Bender to adjourn the meeting.**

**The motion passed on a unanimous vote.**

The meeting adjourned at 12:05 p.m.

ADRIANNE DONOVAN  
Senior Administrative Support Assistant

Attachments

Boston, Massachusetts  
August 26, 2003

Note: These Records have not been approved. They will be considered for approval at the next Market Review Committee meeting.

C.A.R.  
DOCKET # MR0315  
EXHIBIT # 5  
PAGE 1 OF 12

GALLAGHER & ASSOCIATES, P.C.  
ONE CONSTITUTION CENTER  
BOSTON, MA 02129-2095  
617-598-3800  
617-598-3900 (FAX)

OWEN GALLAGHER

DIRECT DIAL: 617-598-3801

July 3, 2003

**VIA HAND DELIVERY**

**RECEIVED**

Timothy Costain  
Market Relations Manager  
Commonwealth Automobile Reinsurers  
100 Summer Street  
Boston, MA 02110

JUL 03 2003

COMMONWEALTH  
AUTOMOBILE REINSURERS

Re: **Appeal of the Flynn Insurance Agency to the Market Review Committee**  
**Docket No.: MR03.15**  
**Additional Materials Based Upon Arbella's Submission of July 2, 2003**

Dear Mr. Costain:

The Flynn Insurance Agency has agreed with the Arbella Insurance Company that it will not object to the filing of July 2, 2003, by Arbella that was within the five-day rule and Arbella has agreed that it will not object to this filing by the Flynn Agency.

The Flynn Agency, in response to the July 2, 2003, submission of Arbella, wishes to call the Committee's attention to the attached documents and terms and provisions of G.L. c. 175, § 169.

The fundamental problem that Arbella, Commerce and this Committee should recognize is that notwithstanding whatever action is taken by this Committee the automobile insurance business presently being written by the Flynn Agency on behalf of Arbella through the Payroll Deduction allowed under G.L. c. 180, §17J, is going to continue with Arbella.

As previously pointed out by the Flynn Agency, the deductions that are made by the State Comptroller are going to continue to be made notwithstanding the actions by Arbella in canceling Mr. Flynn's contract or in the assignment by CAR of the Flynn Agency to the Commerce Insurance Company. The provisions of G.L. c. 180, §17J, are extremely clear, as previously submitted, that it is only the insured giving 60 days notice of the change of deductions that can lawfully terminate these payments.

Accordingly, what is going to happen is that the Flynn Agency, a licensed broker, is going to continue to be forwarded premium money for the Arbella insurance as specified by the State Comptroller. Under the provision of G.L. C. 175, §169, the receipt of that money will continue to bind Arbella to these insureds. The section, in question, states:

An insurance agent or broker acting for a person other than himself in negotiating, continuing or renewing any policy of insurance or any annuity or pure endowment contract shall, for the purpose of receiving any premium therefor, be held to be the agent of the company, whatever conditions or stipulations may be inserted in the policy or contract. (Emphasis supplied).

This statute has been broadly construed by our Supreme Court to obligate a company whenever money is so received. The official records of the Comptroller clearly identify that the monies being deducted under the program administered by the Flynn Agency are designated for the Arbella Insurance Company. An official copy of the Comptroller's records has been previously supplied to this Committee and these records so identify Arbella as the insurance company for which the agency is accepting premiums.

It is important to note, there is nothing the Flynn Agency can do, as a practical matter, to avoid the transmission of these premiums dollars until and unless the conditions of G.L. c. 180, §17J, are satisfied.

Thus, if this Committee does not reassign Mr. Flynn to Arbella there almost certainly will be a major market disruption relating to the intent not to renew that Arbella intends to send to the insureds. The Flynn Agency has requested a legal opinion as to whether or not the mandatory acceptance of premium will vitiate an intent not to renew. While this opinion has not been completed, the clear provisions of G.L. c. 175, §113F, would seem to make the answer in the affirmative.

It is vital that this Committee be completely aware that, notwithstanding any action on this part of assigning the Flynn Agency to Commerce, all of the policies that are presently on payroll deduction are going to continue on payroll deduction plans that are designated by the state as Arbella's and that there is nothing that the Flynn Agency can do to effectuate a transfer of those policies to the Commerce Insurance Company.

Additionally, the Flynn Agency submits the following documents that evidence the knowledge and involvement of the Arbella Insurance Company in the Mass Merchandising Plan submitted to the State Comptroller under General Laws, Chapter 180, Section 17J. These documents are:

1. July 11, 1994 Memorandum to Kenneth Flynn from Albert F. Sarnessian concerning "mass merchandising (group) insurance."

2. Page 2 and Exhibit A of a March 20, 1995 Letter from Arbella Mutual Insurance Company to Kenneth Flynn regarding Arbella's Mass Merchandising Account Program. Page 2 describes the steps for a new business policy using an Arbella Mass Merchandising Account. Exhibit A is a copy of Arbella's Premium Deduction Authorization Form.
3. July 19, 1996 letter from Arbella to Kenneth Flynn discussing the annual payroll deduction billing system.
4. November 20, 1998 letter from Kenneth T. Lyons, National President for the National Association of Government Employees to Mr. William Kilmartin, Comptroller for The Commonwealth of Massachusetts. The letter asks the Comptroller to initiate payroll deductions for government employees for insurance benefits provided by The Flynn Agency and underwritten by Arbella Mutual Insurance Company.
5. January 3, 2001 letter from Arbella's MMPDS/Agency Bill Team Leader Diane Ngyen to Kenneth Flynn that discusses the Reconciliation lists of Mass Merchandising Policies.
6. June 14, 2002 letter to Kenneth Flynn from Arbella Mutual Insurance Company's President, CEO & Chairman John F. Donohue discussing the cancellation of The Flynn Agency's agreement "for person lines business with Arbella Mutual Insurance Company and with Arbella Protection Insurance Company." In paragraph 2, Mr. Donohue states that "In the period leading up to the effective date of termination, we will agree to: Continue the same accounting process (list bill, payroll deduct) (Emphasis supplied).

The above, plus Mr. Flynn's testimony, will establish the intimate involvement of Arbella in approving and setting up the present problematical arrangement under G.L. c. 180, §17J.

Pursuant to the rule relating to filings within the five day period, I am submitting twenty-five copies of this document. Thank you.

Very truly yours,



Owen Gallagher

OG/smc  
Enclosures

To: \_\_\_\_\_ Kenneth Flynn  
Cc:  
Bcc:  
From: Albert F. Sarnessian@MarketingC.  
Subject:  
Date: Monday, July 11, 1994  
Attach:  
Certify:  
Forwarded by:

C.A.R.  
DOCKET # MR 0315  
EXHIBIT # 5  
PAGE 4 OF 12

-----  
Ken- re: mass merchandising (group) insurance

The following are some issues we need to resolve before we can enter into an agreement to write auto and homeowners business thru your agency on a payroll deduction basis.

Accounting- attached is an example of the agreemnt we produce on each group written. You'll note that much of it is devoted to a description of how this business is billed. Normally, the monthly bill is sent to the employer via paper or tape-to-tape, but, if you wish, it could be mailed to you instead. The important thing to remember is that the agency must reconcile with our account (rather than vice-versa). This has always been our accounting posture on all business (regular and payroll deduction) that is billed to the agent.

Servicing the business- you had mentioned previously that your primary prospect (Service Employee Union #509) has about 10,000 employees and 400 locations. What are your plans to service this business, with respect to enrolling new employees and handling requests for changes (change of car, coverage, etc)?

Please give me a call so we can discuss these areas. Thanks.

The accounting work flow associated with the Mass Merchandising program is most easily followed by tracing a new business policy from application to employer bill. The steps for a new business policy are as follows:

1. Agent submits new business application following normal Arbella procedures. This application, however, should be clearly designated as a payroll deduction policy.
2. Along with the new business application or "dec" page, the agent must obtain from the insured, a signed premium deduction authorization form (see Exhibit A) which simply gives Arbella the authority to deal directly with the payroll department of a Mass Merchandising account to set up a deduction schedule for payment of the employee's policies. This form will also provide other pertinent information to Arbella's Mass Merchandising Collections Unit such as social security number and payroll identification number (if applicable) and employer number. The employer number assigned for this group is 01309.
3. After Arbella receives the application and premium authorization form, policy will be issued. No downpayment is required. However, applicants should be encouraged to attach a deposit (at least 20%) as a means of reducing the amount withheld in each regular payroll deduction on the first year.
4. After issuance, the policy is entered into our Mass Merchandising Premium Deduction System (MMPDS). This system produces several reports which are sent to either the agent or to the employer payroll department. These documents include:

Exhibit A

**PREMIUM DEDUCTION AUTHORIZATION**  
**NEW BUSINESS AND ADDITIONAL VEHICLE APPLICATIONS**

EMPLOYEE'S NAME \_\_\_\_\_  
EMPLOYEE'S SOCIAL SECURITY NUMBER \_\_\_\_\_  
EMPLOYER'S NAME \_\_\_\_\_  
EMPLOYER'S NUMBER \_\_\_\_\_  
PAYROLL I.D. (If Required) \_\_\_\_\_

**AUTHORIZATION**

I hereby authorize my employer to deduct, from my paycheck, the amount necessary to pay the premium for the line(s) of insurance checked below:

Automobile                       Homeowners  
 Personal Catastrophe               Boatowners

I further authorize my employer to pay such amounts to the insurer. It is understood that changes in the amount of the deduction may be made without further authorization. This agreement remains in effect until you receive notice from me that it is to be cancelled.

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

1100 Crown Colony Drive  
P.O. Box 9174  
Quincy, MA 02269-9174  
617 328-2500

July 19, 1996

C.A.R.  
DOCKET # MR 0315  
EXHIBIT # 5  
PAGE 7 OF 12

Flynn Insurance Agency  
Attn: Kenneth Flynn  
30 Park Street  
Charlestown, MA 02129

RE: Service Employees Union International - Local 509

Dear Ken:

This note is a follow up to our recent discussion on the above captioned account, and your request that we amend the annual payroll deduction billing frequency from ~~44~~<sub>3</sub> to 52.

As a result of my discussions with our Collections Department, it is apparent that such a change would create quite a bit of problems to us related to the collection of earned premium due the company in the event of cancellation. Specifically, when a policy holder requests cancellation of the policy, we necessarily must attempt to collect the premium owed the company up to the date of cancellation. With ~~44~~ payroll deduction billings, we will have collected more premium up to the date of cancellation than if a 52 payroll deduction frequency was used.

As you might guess, the more business we write in this manner, the more likely that cancellations will lead to a large exposure of earned premium. Since we do not hold your agency responsible for the collection of this premium, we collect it directly from the policy holder. Increasing the payroll deduction frequency would therefor leave us with a much larger, potentially uncollectible exposure.

Ken, as you know, we write a number of payroll deduction group accounts through several of our agents. As such, we strive to create a standard approach to the manner in which we bill and collect the premium. Deviation from this approach necessarily creates additional costs from a processing stand point.



C.A.R.  
DOCKET # MR 0315  
EXHIBIT # 5  
PAGE 8 OF 12

Page 2.

For these reasons, I feel we can not accommodate your request. I do understand and appreciate the reason why you wish to make this change; however, I believe we need to make such decisions based on their overall effect on our processing efficiency and capabilities.

Sincerely,



Albert Sarnessian  
Marketing Manager

AS/mcm

cc: Charlotte Wisniewski, Operations  
Ruth Fontaine, Collections  
Susan McCann, Sr. Marketing Representative



November 20, 1998

C.A.R.  
DOCKET # MR 0315  
EXHIBIT # 5  
PAGE 9 OF 12

Mr. William Kilmartin, Comptroller  
Commonwealth of Massachusetts  
One Ashburton Place  
Boston, MA 02108

Dear Mr. Kilmartin:

The Flynn Insurance Agency, Inc. is providing supplemental insurance benefits to the National Association of Government Employees, and those benefits are underwritten by the following insurance company:

Arbella Mutual Insurance Company

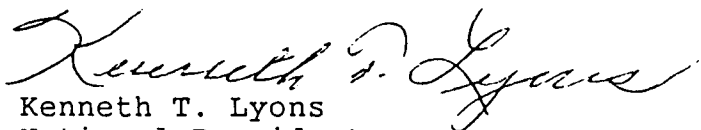
We request, on behalf of the National Association of Government Employees and its members, that the Office of the Comptroller of the Commonwealth of Massachusetts initiate deductions when requested by members who wish to participate in the program. We further request that these deductions be remitted in a timely fashion to the Flynn Insurance Agency, Inc.

It is our understanding that these deductions will not affect other current or future premiums that are being deducted from the pay of these members.

The request is made in compliance with Chapter 723 of the Acts of 1981.

We thank you for your cooperation in this matter.

Sincerely,

  
Kenneth T. Lyons  
National President

cc: Kenneth G. Flynn, Flynn Insurance Agency, Inc.  
Kim M. Saliba, Insurance Administrators, Inc.

1100 Crown Colony Drive  
P.O. Box 699103  
Quincy, MA 02269-9103  
617 328-2800

January 3, 2001

C.A.R.  
DOCKET # MR 0315  
EXHIBIT # 5  
PAGE 10 OF 12

Kenneth Flynn  
Flynn Insurance Agency, Inc  
30 Park Street  
Charlestown, MA 02129

Re: Reconciliation lists

Dear Ken,

This is in follow-up to your memo of November 10, 2000, concerning the Reconciliation lists of Mass Merchandising Policies.

Unfortunately, the billing system that Arbella uses to bill these policies carries the bill history for a two-year period only. The current term and the prior term. Any balances remaining from the prior term are carried over to the current term increasing the amount of the payroll deduction. Therefore, we are unable to accommodate your request for billing histories back to the inception dates of the policies in question.

We can continue to notify your agency with a list of any insureds that have earned premium balance due prior to our sending letters directly to the insured. Please advise me if you would like to receive a list of those insureds that in fact have earned premium owed.

If you have any questions, please feel free to contact me at (617) 328-2564.

Sincerely,



Diane Nguyen  
MMPDS/Agency Bill Team Manager

C.c: Al Sarnessian, Marketing Development  
Lauren Clark, Billing & Collections Manager

1100 Crown Colony Drive  
P.O. Box 699103  
Quincy, MA 02269-9103  
617 328-2800

June 14, 2002

Certified: 7001 2510 0004 3233 1400

Kenneth Flynn  
Flynn Insurance Agency, Inc.  
30 Park St.  
Charlestown, MA 02129

C.A.R.  
DOCKET # MR 0315  
EXHIBIT # 5  
PAGE 11 OF 12

Dear Mr. Flynn.

To confirm your recent conversation with Don Barber, Susan McCann and myself, a review of your premium and loss experience over the past three years has shown an unprofitable result. Therefore, we are proceeding with the cancellation of your Agency Agreement for personal lines business with Arbella Mutual Insurance Company and commercial lines business with Arbella Protection Insurance Company.

All authority on your part to act as an agent or to represent the Arbella Insurance Group for personal and commercial lines will be considered cancelled for new and renewal business effective July 14, 2003.

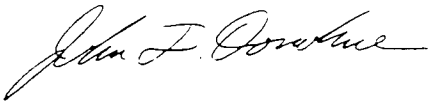
For the period leading up to the effective date of termination, we will agree to:

- \* Accept new business
- \* Continue electronic download and discontinue upload
- \* Continue the same accounting process (list bill, payroll deduct)

Our decision to terminate means you will no longer be able to bind coverage on any risks on or after July 14, 2003. For the purpose of enabling you to service personal automobile business without increasing the liability of our company, you may retain your automobile registration stamps until July 14, 2004. (Please note that "increasing the liability of our company" includes the adding of vehicles to policies currently in force.)

If there is any way in which we can be of assistance to you, please contact Don Barber. We wish to assure you of our full cooperation in every respect possible, consistent with the above.

Sincerely,



John F. Donohue  
President, CEO & Chairman  
Arbella Insurance Group

Cc: Timothy Costain, Commonwealth Automobile Reinsurers  
Don Barber, Vice President, Personal Lines Marketing and Underwriting  
Jim Glasser, Assistant Vice President, Corporate Marketing  
Al Sarnessian, Senior Manager, Corporate Marketing  
Andrea MacKay, Assistant Vice President, Personal Lines Underwriting  
Susan McCann, Senior Marketing Representative  
Ann Ormella, Agency Interface  
Helen Callahan, Corporate Marketing



# Commerce Insurance

The Commerce Insurance Company  
Citation Insurance Company

Members of The Commerce Group, Inc.

211 Main Street, Webster, Massachusetts 01570 (508) 943-9000  
www.CommerceInsurance.com

C.A.R.  
DOCKET # MR 0316  
EXHIBIT # 2  
PAGE 1 OF 5

July 1, 2003

Mr. Timothy Costain  
Commonwealth Automobile Reinsurers  
100 Summer Street  
Boston, MA 01220

Re: Belkis Salas-Jordan dba Family Discount Insurance Agency

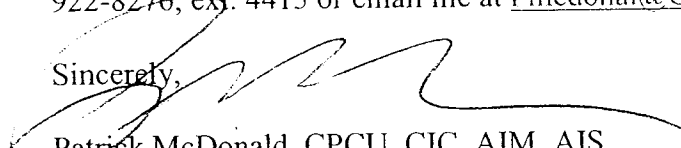
Dear Mr. Costain,

In support of Commerce Insurance's termination of the above agent's Exclusive Representative Producer assignment, please find the attached documents:

- Agency Visit Log
- Policy Distribution Report
- Affidavits

If you have any questions or need any additional information, please contact me at (800) 922-8276, ext. 4413 or email me at [Pmcdonal@Commerceinsurance.com](mailto:Pmcdonal@Commerceinsurance.com).

Sincerely,

  
Patrick McDonald, CPCU, CIC, AIM, AIS  
Assistant Vice President, Marketing

C: P. Dignan, Commerce Insurance  
B. Salas-Jordan, Family Discount Insurance Agency  
R. Wholley, Law Office of Richard F. Wholley

**Belkis Salas-Jordan dba  
 Family Discount Insurance Agency  
 Agency Visit Log**

<b>Date</b>	<b>Time</b>	<b>Type</b>	<b>Comments</b>
April 25, 2003	12:40	Unannounced	Office Closed – No activity
April 29, 2003		Scheduled	Scheduled visit – Mkt. Rep. and Underwriter met with Belkis and Alan. Alan is not licensed.
May 5, 2003		Unannounced	Office closed – No activity
May 7, 2003	11:00	Unannounced	Office closed – No activity
May 9, 2003	1:30	Unannounced	Office closed – Spoke with Building Manager who stated that the tenants do not spend much time at the agency.
May 13, 2003	11:15	Unannounced	Office closed – No activity
May 16, 2003		Unannounced	Alan, who is not licensed, is the only person at the office.
May 19, 2003	1:45	Unannounced	Office closed – No activity
May 22, 2003	11:50	Unannounced	Office closed – No activity
May 27, 2003	10:55	Unannounced	Office closed – No activity
May 29, 2003		Unannounced	Office closed – No activity
June 4, 2003	1:30	Unannounced	Office closed – No activity
June 6, 2003	11:45	Unannounced	Alan, who is not licensed, is the only person at the office.

The agency office is located in a professional office complex that has both a Main Street and rear entrance. On February 12, 2003, Commerce Insurance supplied the agency with two certification stamps.

Family Discount Insurance Agency  
1365 Main Street  
Springfield, MA 01103

Policy Distribution  
As of June 25, 2003

City/Town	Number of Policies
Lowell	53
Lawrence	34
Methuen	25
Andover/N. Andover	7
Dracut	4
Haverhill	3
Chelmsford	2
Stoneham	2
Peabody	1
Groton	1
Brockton	1
Saugus	1
Chelsea	1
Salem	1
Pepperell	1
Sandwich	1
Lynn	1
Tewksbury	1
Attleboro	1
West Springfield	1
<b>Total</b>	<b>142</b>



COMMONWEALTH AUTOMOBILE REINSURERS  
MARKET REVIEW COMMITTEE

C.A.R.  
DOCKET # MR 0316  
EXHIBIT # 2  
PAGE 4 OF 5

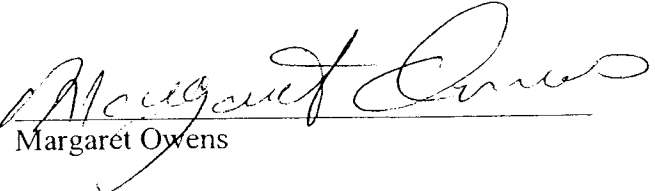
IN THE MATTER OF THE )  
REQUEST FOR REVIEW/RELIEF OF )  
FAMILY DISCOUNT INSURANCE AGENCY )  
PURSUANT TO RULE 20, CAR RULES OF )  
OPERATION )

AFFIDAVIT OF MARGARET OWENS IN SUPPORT OF THE COMMERCE  
INSURANCE COMPANY'S TERMINATION OF THE REPRESENTATIVE  
PRODUCER AGREEMENT BY AND BETWEEN THE COMMERCE INSURANCE  
COMPANY AND FAMILY DISCOUNT INSURANCE AGENCY

I, Margaret Owens, being duly sworn, hereby depose and say as follows:

1. I am employed by The Commerce Insurance Company as an Underwriter.
2. In my capacity as an Underwriter at The Commerce Insurance Company, I have responsibility for the oversight of Family Discount Insurance Agency.
3. I submit this Affidavit in support of The Commerce Insurance Company's termination of the Representative Producer Agreement executed by and between The Commerce Insurance Company and Family Discount Insurance Agency.
4. I have not at any time informed, stated, or told Belkis Salas-Jordan or any other representative of Family Discount Insurance Agency that it is permissible to maintain less than full time hours of operation or that it is permissible to maintain other than regular business hours of operation.

Signed under the pains and penalties of perjury this 27 day of  
June, 2003.

  
Margaret Owens

COMMONWEALTH AUTOMOBILE REINSURERS  
MARKET REVIEW COMMITTEE

\_\_\_\_\_  
IN THE MATTER OF THE )  
REQUEST FOR REVIEW/RELIEF OF )  
FAMILY DISCOUNT INSURANCE AGENCY )  
PURSUANT TO RULE 20, CAR RULES OF )  
OPERATION )  
\_\_\_\_\_ )

AFFIDAVIT OF JUDITH FULGINITI IN SUPPORT OF THE COMMERCE INSURANCE  
COMPANY'S TERMINATION OF THE REPRESENTATIVE PRODUCER AGREEMENT BY AND  
BETWEEN THE COMMERCE INSURANCE COMPANY AND FAMILY DISCOUNT INSURANCE  
AGENCY

I, Judith Fulginiti, being duly sworn, hereby depose and say as follows:

1. I am employed by The Commerce Insurance Company as a Marketing Representative.
2. In my capacity as a Marketing Representative at The Commerce Insurance Company, I have responsibility for the oversight of Family Discount Insurance Agency.
3. I submit this Affidavit in support of The Commerce Insurance Company's termination of the Representative Producer Agreement executed by and between The Commerce Insurance Company and Family Discount Insurance Agency.
4. I have not at any time informed, stated, or told Belkis Salas-Jordan or any other representative of Family Discount Insurance Agency that it is permissible to maintain less than full time hours of operation or that it is permissible to maintain other than regular business hours of operation.

Signed under the pains and penalties of perjury this 30 day of JUNE, 2003.

Judith Fulginiti  
Judith Fulginiti