



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, JUNE 9, 2004 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. Robert J. Cordner	OneBeacon Insurance
Mr. Daniel F. Crimmins	Safety Insurance Company
Mr. John B. Doherty	Barry & McHugh Insurance Agency, Inc.
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. David J. McCormick	McCormick & Sons Insurance Agency, Inc.
Mr. James Moran*	Quincy Mutual Fire Insurance Company
Mr. Michael J. Richards**	The Commerce Insurance Company
Ms. Nanci S. Peters	George Peters Insurance Agency, Inc.
Mr. Edward C. Ruhl	The Hanover Insurance Company
Ms. Susan K. Scott	The Premier Insurance Company of Mass.
Mr. Mark R. Silva	Benson, Young & Downs Ins. Agency, Inc.

Substituted for Mr. William J. Whitebone*
Substituted for Mr. David H. Cochrane**

Not in attendance:
Mr. Francis D. Gibbons

O'Brien & Gibbons Insurance Center

Commonwealth Automobile Reinsurers present -

Mr. Ralph Iannaco
Mr. Joseph Maher
Mr. John Metcalfe
Mr. Timothy Costain
Ms. Valerie Gedziun
Ms. Adrienne Donovan

President
Vice President, General Counsel & Secretary
Director of Administration & Market Relations
Market Relations Manager
Vice President of Claims
Market Relations Specialist

Also present –

Mr. Felix Shlossman

A.D. Medical Services, Inc.

Mr. J. D’Natal
Mr. Frank Hart
Mr. James Karolik
Ms. Andrea MacKay
Ms. Rhonda Prokos
Ms. Erin Schaaf
Mr. Stephen Slattery
Mr. Earl Sylvester

Arbella Mutual Insurance Company

Ms. Elizabeth Clancy
Mr. Pedro Garcia
Mr. Michael Mooney
Mr. Scott Mooney

Castillo Insurance Agency, Corp.

Richard F. Wholley, Esq.

Law Offices of Richard F. Wholley

Mr. Ronald Allen
Mr. Peter Bagdon
Ms. Julie Kfoury

Liberty Mutual Insurance Company

Mr. Rolfi Espinal

Marfy Auto Glass

Mr. James Haas
Mr. Gregory Melanson

MetLife Auto & Home

Ms. Kathryn Anbindea
Ms. Konnie Berroa
Roberta R. Fitzpatrick, Esq.

Mintz, Levin, Cohn, Ferris, Glovsky & Popeo

Mr. James Hayes

Norfolk & Dedham Group

Mr. Charles Alley
Mr. Barry Tagen

Pilgrim Insurance Company

Mr. Kenneth Willis

Plymouth Rock Assurance Corporation

Also present (continued) –

Ms. Diane Fortino	The Premier Insurance Company of Mass.
Mr. James Berry	Safety Insurance Company
Mr. Paul Coleman	
Mr. David Krupa	
Mr. David Brink	Smith & Brink P. C.

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

MR

04.01 Records of Previous Meeting

A motion was made by Mr. Sumner Gilman and seconded by Mr. David McCormick to approve the Records of the Market Review Committee meeting of May 5, 2004.

The motion passed on a unanimous vote.

MR

04.04 Aztec Insurance Agency/The Premier Insurance Company of Massachusetts

The Aztec Insurance Agency requested a review of the termination of its ERP appointment by The Premier Insurance Company of Mass. for violations of CAR Rule 14 including, but not limited to, “failure to remit premiums in a timely manner” and “failure to notify applicants for insurance of the option of utilizing an installment payment plan.” At the March 9, 2004 meeting of the Market Review Committee, both parties wished to submit additional documentation for consideration. A desire was expressed by Committee members that the parties attempt to resolve the matter with possible assistance from CAR Staff. The Committee voted unanimously to continue the matter until its next meeting. At its May 5, 2004 meeting, the Committee was informed that the parties wished to continue the matter in order to further pursue a resolution. The Committee granted the continuance.

Ms. Susan Scott indicated she would not participate in the matter.

Chairman Charles Boynton advised that Attorney Richard Wholley, representing Aztec Insurance Agency, had submitted a request for continuance until the Committee’s next meeting as the parties are in negotiations to resolve their dispute and, at that time, will provide the Committee with a written agreement.

Mr. Wholley indicated that he had spoken to Attorney Richard McGovern, counsel for Premier, and the two had agreed that Mr. Wholley’s request would serve as a joint request for a continuance. He explained that the parties wish to resolve the matter through a negotiated agreement and expressed hope that a resolution could be reached by the Committee’s next meeting.

MR

04.04 Aztec Insurance Agency/The Premier Insurance Company of Massachusetts (continued)

A motion was made by Mr. Sumner Gilman and seconded by Mr. Mark Silva to accept the request and continue the matter until its next meeting.

The motion passed on a unanimous vote.

MR

04.06 Coverall Insurance Agency, Inc./Arbella Mutual Insurance Company

The Coverall Insurance Agency requested a review of the termination of its Exclusive Representative Producer appointment by the Arbella Mutual Insurance Company for violations of Rules 13 and 14, CAR Rules of Operation, including, "failure to notify the Servicing Carrier of any suspected fraud..." and "failure to cooperate with the Servicing Carrier in its investigations."

As a courtesy to the parties, Mr. Sumner Gilman disclosed that through his premium finance company, he maintains a business relationship with Coverall Insurance Agency, Arbella Mutual Insurance Company, and Attorney Roberta Fitzpatrick. He indicated that he also maintains a business relationship with Attorney Richard Wholley through the Exclusive Representative Producers of Massachusetts. He offered to withdraw from the matter if any of the parties objected to his participation.

As a courtesy to the parties, Ms. Nancy Bender disclosed that she had a prior business connection with the parties and offered to withdraw from the matter if any of the parties objected to her participation.

Neither party objected to the participation of Mr. Gilman or Ms. Bender.

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

Attorney Roberta Fitzpatrick, representing Arbella Mutual, summarized the basis of the termination of the Coverall Insurance Agency's ERP appointment, indicating that the agency has been very complacent about verifying rating information and reporting suspected fraud to Arbella. She characterized Coverall as a facilitator in the perpetration of rate and claim fraud by many of the agency's insureds. She reviewed Arbella's supporting documentation, providing evidence that the agency principal, Mr. Gerald Hartstone, was aware that his agency has been utilized as a conduit for applicants seeking to obtain insurance for the purpose of committing fraud. Ms. Fitzpatrick stated that Arbella had confirmed Mr. Hartstone's knowledge of fraudulent activity during a meeting with Arbella's SIU investigators in March and again during a conversation in May while investigating a suspicious claim. According to Ms. Fitzpatrick, in both instances, Mr. Hartstone made comments acknowledging his suspicions of fraud, at which point he was reminded that ERPs are required under CAR Rules to notify their servicing carriers of any suspected fraudulent activity. Ms. Fitzpatrick then cited several policies issued with false drivers' licenses and falsified addresses, noting that these same insureds then go on to report several claims in a short amount of time.

In addressing the issue of Coverall's alleged misappropriation of return premium checks, Ms. Fitzpatrick indicated that Arbella has determined numerous instances in which checks made out to insureds were deposited into the personal accounts of two Coverall Agency employees, both of whom are unlicensed and operate under the supervision of Mr. Hartstone, the only licensed broker in the agency.

MR

04.06 Coverall Insurance Agency, Inc./Arbella Mutual Insurance Company (continued)

Ms. Fitzpatrick then cited specific examples of the returned premium checks that did not make their way to Coverall insureds, even upon Arbella's request for cash receipts evidencing payment of the return premiums. Ms. Fitzpatrick concluded, stating that the evidence regarding Coverall's ongoing failure to comply with CAR Rules is overwhelming and requested that the Committee uphold the termination of the agency.

Attorney Richard Wholley, representing Coverall Insurance Agency, disputed Arbella's accusations stating that to remedy this situation the agency needs more guidance from Arbella regarding fraud prevention in the form of educational meetings, bulletins, and manuals that should be provided to ERPs and voluntary agents. He indicated that Coverall operates in an inner city location where transient applicants are the norm, noting that the agency asks the relevant questions pertaining to an applicant's address and licensing information. He said that unless the agency believes the information provided is not factual, it has an obligation to write business. Mr. Wholley added that since the agency is responsible for compliance with CAR's 48 hour rule on the submission of coverage to its Servicing Carrier, Arbella must share responsibility for identifying fraud at the point of receipt and policy issuance, as opposed to waiting for losses to occur. He charged that Arbella wants to hold the agency responsible for ferreting out fraud that the company only discovered after intensive investigations. Mr. Wholley said that the Coverall Agency does not have the resources to become an investigative service on behalf of Arbella's fraud fighting responsibilities. Mr. Wholley acknowledged that agency employees admit to cashing checks payable to individuals as a check cashing service to the clients upon their request, noting that such practice is not prohibited by CAR Rules. He indicated that this action is an attempt by Arbella to rid itself of a high loss ratio ERP and avoid its Servicing Carrier obligations. Mr. Wholley requested that Coverall's ERP appointment be reinstated.

The Committee discussed the significant amount of documentation reflecting a high level of fraudulent activity within the agency. They also noted the high percentage of new business applications submitted with fictitious addresses in addition to the amount of fraudulent claims filed in a short timeframe on those policies. Several Committee members noted that the evidence presented indicates an awareness on Mr. Hartstone's part of fraudulent activity within his agency, but took note of the apparent infrequency with which the agency alerted Arbella to suspicions of fraud. The Committee expressed concern about alleged threatening remarks made by Mr. Hartstone to an Arbella SIU investigator who was seeking agency cooperation in an investigation.

Mr. Crimmins questioned why agency employees would cash insured refund checks in amounts which, in some cases, seem to exceed the amount of money an agency CSR would have on hand, noting that one of the items documented by Arbella exceeded seven hundred dollars. He indicated that there was no evidence presented to indicate that other agencies in the vicinity were providing such check cashing services. Other Committee members expressed concern over agency employees depositing insured premium refund checks into their personal accounts with no documentation to indicate that the insureds were given cash for the checks.

Mr. Wholley responded that remarks attributed to Mr. Hartstone and allegedly made to an Arbella SIU investigator were taken out of context and should be disregarded. He indicated that his client did authorize an employee to cash a return premium check once, and if the employees have continued to do so, it was done without Mr. Hartstone's consent or knowledge.

MR

04.06 Coverall Insurance Agency, Inc./Arbella Mutual Insurance Company (continued)

The Committee commended Arbella's efforts in identifying the ongoing fraud in the agency, noting that the information provided was overwhelming and supported the Servicing Carrier's contention that the agency should have been more proactive in efforts to discourage insureds from attempting to perpetrate fraud. The Committee also noted that Mr. Hartstone's efforts to alert Arbella of suspected fraud were insufficient, given the apparent high level of fraudulent activity within the agency.

The Committee was not convinced that Arbella was motivated to rid itself of a high loss ratio ERP in light of emerging efforts to reform the residual market. Finally, the Committee was unconvinced that the cashing of insured refund checks by agency employees was simply a service provided to agency clients.

A motion was made by Mr. Sumner Gilman and seconded by Ms. Nancy Bender to uphold the appointment termination with a thirty day stay to allow a possible sale of the agency, provided that no new business is written.

The motion passed on a unanimous vote.

CAR Counsel Joseph Maher advised the parties of their rights pursuant to CAR's Rule 20.

MR

04.07 Castillo Insurance Agency Corp./Liberty Mutual Insurance Company

A Request for Review was submitted by the Castillo Insurance Agency Corp. requesting a review of the termination of its Exclusive Representative Producer appointment by the Liberty Mutual Insurance Company for violations of Rules 13 and 14, CAR Rules of Operation, including, but not limited to, "failure to notify the Servicing Carrier of any suspected fraud....," "failure to properly order endorsements," and "failure to quote proper premiums."

As a courtesy to the parties, Mr. Sumner Gilman disclosed that through his premium finance company, he maintains a business relationship with Liberty Mutual Insurance Company and Attorney Roberta Fitzpatrick. He indicated that he also maintains a business relationship with Attorney Richard Wholley through the Exclusive Representative Producers of Massachusetts. He offered to withdraw from the matter if any of the parties objected to his participation.

Mr. John Kittel disclosed that Arbella Mutual maintains a business relationship with Attorney Roberta Fitzpatrick. He offered to withdraw from the matter if any of the parties objected to his participation.

Neither party objected to the participation of Messrs. Gilman or Kittel.

Mr. Douglas Long indicated he would not participate in the matter.

Attorney Richard Wholley, representing Castillo Insurance Agency, explained that the agency's primary office location is in Lawrence with additional offices in Lowell and Lynn. He said that the agency principal is Ms. Elizabeth Clancy, the treasurer is her father, Michael Mooney, and all of the

MR

04.07 Castillo Insurance Agency Corp./Liberty Mutual Insurance Company (continued)

offices have licensed agency employees, including Scott Mooney who is the licensed broker for the Lawrence office. Mr. Wholley indicated that Liberty Mutual's action was based on information provided by two former disgruntled employees, unsubstantiated allegations, and flawed investigations. Mr. Wholley indicated that the Castillo Agency adamantly denies allegations that Pedro Garcia, the agency's Lawrence office manager and a ten year agency employee, accepted kickbacks for referrals to glass shops, medical treatment facilities, and attorneys, or that he has engaged in backdating coverage or falsifying garaging information. He added that the agency relies on the truth and integrity of its employees as they are the eyes and ears with respect to dealing with their inner city Spanish speaking customers. Mr. Wholley asked the Committee to listen to the testimony of the agency owners and employees and uphold their request to reinstate the agency's ERP appointment.

Attorney Roberta Fitzpatrick, representing Liberty Mutual, stated that while Ms. Clancy is listed as the agency principal, she maintains a full time job in the court system. According to Ms. Fitzpatrick, questions exist as to whether the agency maintains adequate licensed supervision over operations at all of its locations. She referred to the signed affidavits of two former employees, Ms. Yanira Frias and Ms. Konnie Berroa, in which they attest to ongoing fraudulent activity of the agency's manager, Mr. Garcia. Those activities allegedly include accepting kickbacks, knowingly providing inaccurate rating information on new business applications, submitting false garaging information, and backdating coverage.

Ms. Berroa responded to questions from Ms. Fitzpatrick regarding the allegations contained in her affidavit. Ms. Berroa noted that she had been placed in a very uncomfortable position by Mr. Garcia and members of the Mooney family insofar as she was told it was not her place to report any suspicious activity to Liberty Mutual. Ms. Fitzpatrick concluded that the conduct as described by the agency employees in their affidavits establishes a fundamental disregard for CAR Rules, and Liberty Mutual submits that the appropriate course of action is to uphold the termination of the Castillo agency.

In response to Ms. Fitzpatrick's line of questioning with Ms. Berroa, Mr. Wholley questioned Mr. Garcia. The agency office manager indicated that Ms. Berroa had been a problem employee for the agency, noting that she was consistently late for work and generally rude to the other employees and customers. Mr. Garcia denied that he ever accepted payments from service providers or that he encouraged Ms. Frias and Ms. Berroa to engage in any fraudulent activity.

Mr. Michael Mooney supported Mr. Garcia's testimony that Ms. Berroa's employment at the agency was problematic at best. He praised Mr. Garcia's management skills, indicating that he has been a valued employee for over ten years and an outstanding member in Lawrence's Latino community. Mr. Mooney noted he was shocked by the affidavit submitted by Ms. Frias, adding that the agency had never had any problems with her and she had been a valued employee.

Agency President, Elizabeth Clancy, informed the Committee that she does maintain full time employment as an assistant court magistrate in the Lynn court system, but spends time at agency offices in Lynn and Lawrence during hours that do not conflict with her job responsibilities. Ms. Clancy affirmed that each agency location has a licensed broker on the premises to supervise activity.

MR

04.07 Castillo Insurance Agency Corp./Liberty Mutual Insurance Company (continued)

Mr. Scott Mooney, the licensed broker at the Lawrence office, indicated that in his four years working at the agency's Lawrence office, he has not had any problems with the staff or with Liberty Mutual similar to those alleged by the Servicing Carrier in its termination letter. He insisted that any referrals made by the agency to area service providers are given with the best interests of the agency's clientele in mind and denied that any compensatory deals exist with the agency and those providers.

The Committee also heard from Mr. Rolfi Espinal of Marfy Auto Glass and Mr. Felix Shlossman of A.D. Medical Services, Inc. Both men denied providing any compensation to Mr. Garcia or the Castillo Insurance Agency for the referral of insureds to their businesses.

Following brief discussion, **a motion was made by Ms. Nancy Bender and seconded by Ms. Paula Gold to uphold the agency's appeal and reverse the termination as the Committee was unable to reasonably conclude that the information as presented by both parties warranted termination of the agency's ERP appointment.**

Attorney Fitzpatrick requested an opportunity for the Committee to hear from one of Liberty Mutual's investigators before voting on the motion.

Ms. Bender withdrew her motion to allow the testimony.

Ms. Julie Kfoury provided a summary of investigations into the Castillo Agency's activities which she said uncovered several attorneys, chiropractic offices, and pre-inspection facilities which had all given kickbacks to Mr. Garcia at the Castillo Agency. She added that Liberty interviewed several former employees and insureds that confirmed illegal activity at the agency. Ms. Kfoury indicated that Liberty had general discussions with the Mooneys about the agency's activity, but could not convince them to investigate the allegations themselves as they hold Mr. Garcia in such high regard.

Committee members expressed difficulty with attempting to determine whose testimony was more credible and convincing. Mr. Corder cited the lack of specificity provided by Liberty Mutual relative to its allegations of premium fraud and wished more information had been provided. Ms. Gold questioned the extent to which Liberty Mutual had discussed with the agency principal the specific nature of the problems it had discovered prior to initiating the termination action.

Following further discussion, **a motion was made by Mr. Mark Silva and seconded by Mr. Sumner Gilman to reinstate the agency's appointment with a six month probationary period and directed the parties to provide a status report following that timeframe.**

The motion passed on a unanimous vote.

CAR Counsel Joseph Maher advised the parties of their rights pursuant to CAR's Rule 20.

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

The motion passed on a unanimous vote.

The meeting adjourned at 1:30 p.m.

ADRIANNE DONOVAN
Market Relations Specialist

Boston, Massachusetts
July 21, 2004

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