

STATE OF ARIZONA  
FILED

MAR 22 2016

DEPT. OF INSURANCE

**REPORT OF TARGET MARKET CONDUCT EXAMINATION**

**OF**

**COMMERCE WEST INSURANCE COMPANY**

**NAIC #13161**

**AS OF**

**December 31, 2014**

**TABLE OF CONTENTS**

AFFIDAVIT .....	4
FOREWORD .....	5
SCOPE AND METHODOLOGY .....	6
HISTORY OF THE COMPANY .....	7
PROCEDURES REVIEWED WITHOUT EXCEPTION .....	8
EXAMINATION REPORT SUMMARY .....	8
RESULTS OF PREVIOUS MARKET CONDUCT EXAMINATIONS.....	10
UNDERWRITING AND RATING.....	11
CANCELLATIONS AND NON-RENEWALS .....	16
CLAIMS PROCESSING .....	20
SUMMARY OF FAILED STANDARDS.....	25
SUMMARY OF PROPERTY AND CASUALTY STANDARDS .....	26



**Market Oversight Division**

**Arizona Department of Insurance**

2910 North 44<sup>th</sup> Street, Suite 210, Phoenix, Arizona 85018-7269

Web: <https://insurance.az.gov> | Phone: (602) 364-4994 | Fax: (602) 364-2505

---

**Douglas A. Ducey, Governor**

**Darren T. Ellingson, Acting Director**

Honorable Darren T. Ellingson  
Acting Director of Insurance  
State of Arizona  
2910 North 44<sup>th</sup> Street  
Suite 210, Second Floor  
Phoenix, Arizona 85018-7269

Dear Acting Director Ellingson:

Pursuant to your instructions and in conformity with the provisions of the Insurance Laws and Rules of the State of Arizona, a desk examination has been made of the market conduct affairs of the:

**Commerce West Insurance Company**  
**NAIC #13161**

The above examination was conducted by Helene I. Tomme, CPCU, CIE, Market Examinations Supervisor, Examiner-in Charge, and Christopher G. Hobert, CIE, MCM, Market Conduct Senior Examiner and William P. Hobert, CIE, CPCU, CLU, Market Conduct Senior Examiner.

The examination covered the period of January 1, 2014 through December 31, 2014.

As a result of that examination, the following Report of Examination is respectfully submitted.

Sincerely yours,

Helene I. Tomme, CPCU, CIE  
Market Examinations Supervisor  
Market Oversight Division



## **FOREWORD**

This targeted market conduct examination report of the Commerce West Insurance Company (herein referred to as, "CWIC", or the "Company"), was prepared by employees of the Arizona Department of Insurance (Department) as well as independent examiners contracting with the Department. A market conduct examination is conducted for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the state of Arizona. The Examiners conducted the examination of the Company in accordance with Arizona Revised Statutes (A.R.S.) §§ 20-142, 20-156, 20-157, 20-158 and 20-159. The findings in this report, including all work products developed in the production of this report, are the sole property of the Department.

The examination consisted of a review of the following Private Passenger Auto (PPA) business operations:

1. Complaint Handling
2. Marketing and Sales
3. Producer Compliance
4. Underwriting and Rating
5. Cancellations and Non-Renewals
6. Claims Processing

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Director.

Failure to identify or criticize specific Company practices does not constitute acceptance of those practices by the Department.

## **SCOPE AND METHODOLOGY**

The examination of the Company was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners (NAIC) and the Department. The market conduct examination of the Company covered the period of January 1, 2014 through December 31, 2014 for business reviewed. The purpose of the examination was to determine the Company's compliance with Arizona's insurance laws, and whether the Company's operations and practices are consistent with the public interest. This examination was completed by applying tests to each examination standard to determine compliance with the standard. Each standard applied during the examination is stated in this report and the results are reported beginning on page 8.

In accordance with Department procedures, the Examiners completed a Preliminary Finding ("Finding") form on those policies, claims and complaints not in apparent compliance with Arizona law. The finding forms were submitted for review and comment to the Company representative designated by Company management to be knowledgeable about the files. For each finding the Company was requested to agree, disagree or otherwise justify the Company's noted action.

The Examiners utilized both examinations by test and examination by sample. Examination by test involves review of all records within the population, while examination by sample involves the review of a selected number of records from within the population. Due to the small size of some populations examined, examinations by test and by sample were completed without the need to utilize computer software.

File sampling was based on a review of underwriting and claim files that were systematically selected by using Audit Command Language (ACL) software and computer data files provided by the Company. Samples are tested for compliance with standards established by the NAIC and the Department. The tests applied to sample data will result in an exception ratio, which determines whether or not a standard is met. If the exception ratio found in the sample is, generally less than 5%, the standard will be considered as "met." The standard in the areas of procedures and forms use will not be met if any exception is identified.

## **HISTORY OF THE COMPANY**

(Provided by the Company)

Commerce West Insurance Company was incorporated March 19, 1948 under the laws of California as Western Pioneer Insurance Company. It began business on October 18, 1949. The present title was adopted on July 23, 1998. Capital stock of \$3,333,350 consists of 66,667 common shares at \$50 per share. A total of \$100,000 common shares are authorized.

All outstanding shares are held by ACIC Holding Co., Inc. which is 95% owned by MAPFRE U.S.A. Corp. Financial control of the company was acquired on August 31, 1995 from Atlantis Plastics, Inc. (known as Trivest Holdings, Ltd. prior to 1986), a holding company with investments in insurance, furniture and plastics.

## **PROCEDURES REVIEWED WITHOUT EXCEPTION**

The Examiners review of the following Company departments<sup>1</sup> or functions indicates that they appear to be in compliance with Arizona statutes and rules:

Complaint Handling

Marketing and Sales

Producer Compliance

## **EXAMINATION REPORT SUMMARY**

The examination identified 10 compliance issues that resulted in 101 exceptions due to the Company's failure to comply with statutes and rules that govern all insurers operating in Arizona. These issues were found in three (3) of the six (6) sections of Company operations examined. The following is a summary of the Examiner's findings:

### **Underwriting and Rating**

In the area of Underwriting and Rating, four (4) compliance issues are addressed in this Report as follows:

- The Company failed to accurately calculate five (5) PPA policy premiums.
- The Company failed to properly document and retain signed Uninsured Motorist (UM) and Underinsured Motorist (UIM) rejection forms for 34 applicants.
- The Company failed to provide seven (7) policyholders a Summary of Rights for an adverse underwriting decision that resulted in a renewal premium increase.
- The Company failed to correctly and consistently list and identify accident points on 22 PPA declarations pages.

### **Cancellation and Non Renewals**

In the area of Cancellations and Non Renewals, three (3) compliance issues addressed in this Report as follows:

---

<sup>1</sup> If a department name is listed there were no exceptions noted during the review.

- The Company failed to provide a Summary of Rights on six (6) PPA non-renewal notices.
- The Company failed to provide the required 7-day grace period on 21 PPA cancellations for non-payment of premium.
- The Company failed to mail three (3) PPA non renewal notices at least 45-days before the effective date of the non renewal.

### **Claims Processing**

In the area of Claims Processing, three (3) compliance issues are addressed in this Report as follows:

- The Company failed to specify the length of time the authorization remains valid (shall be no longer than the duration of the claim) on one (1) claim authorization form.
- The Company failed to advise the individual or a person authorized to act on behalf of the individual that they are entitled to receive a copy of the authorization form on one (1) claim authorization form.
- The Company failed to fully reimburse one (1) insured their portion of the deductible in a timely manner when subrogation recovery was successful, which resulted in a returned payment being owed in the amount of \$569.04 (including interest).

FACTUAL FINDINGS

**RESULTS OF PREVIOUS MARKET CONDUCT EXAMINATIONS**

During the past five (5) years, there was one (1) Market Conduct Examination completed by the state of California. No significant patterns of non-compliance were noted.

**UNDERWRITING AND RATING**

**Private Passenger Automobile (PPA):**

The Examiners reviewed 50 PPA New/Renewal Business files out of a population of 3,617 and 50 PPA Surcharge out of a population of 650 during the examination period. This New/Renewal and Surcharge review included a total sample size of 100 PPA files from a total population of 4,267.

All new/renewal files reviewed were to ensure compliance with Arizona Statutes and Rules.

**The following Underwriting and Rating Standards were met:**

#	STANDARD	Regulatory Authority
3	All forms and endorsements forming a part of the contract should be filed with the director (if applicable).	A.R.S. § 20-398
4	All mandated disclosures are documented and in accordance with applicable statutes, rules and regulations, including, but not limited to, the Notice of Insurance Information Practices and the Authorization for Release of Information.	A.R.S. §§ 20-2104, 20-2106, 20-2110 and 20-2113
6	Rescissions are not made for non-material misrepresentations.	A.R.S. §§ 20-463, 20-1109

**The following Underwriting and Rating Standard failed:**

#	STANDARD	Regulatory Authority
1	The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the Company Rating Plan.	A.R.S. §§ 20-341 through 20-385
2	Disclosures to insureds concerning rates and coverage are accurate and timely.	A.R.S. §§ 20-259.01, 20-262, 20-263, 20-264, 20-266, 20-267, 20-443, 20-2110
5	Policies and endorsements are issued or renewed accurately, timely and completely.	A.R.S. §§ 20-1118, 20-1120, 20-1121, 20-1632 and 20-1654

**Underwriting and Rating, Standard # 1 – failed**

**Preliminary Finding 009 – Incorrect Premium Calculation** – The Examiners identified five (5) PPA policies where the Company failed to accurately calculate policy premium. The failure to accurately calculate premium is an apparent violation of A.R.S. § 20-385.

**PRIVATE PASSENGER AUTOMOBILE  
Summary of Findings – Standard 1 File Review  
Failed to accurately calculate policy premium  
A.R.S. § 20-385**

<b>Files Reviewed</b>	<b>Population</b>	<b>Reviewed</b>	<b>Exceptions</b>	<b>Request #</b>
PPA New/Renewal Business	3,617	50	2	006
PPA Surcharge Business	650	50	3	008
<b>Totals</b>	<b>4,267</b>	<b>100</b>	<b>5</b>	
			<b>Error Ratio</b>	<b>5%</b>

**A 5% error ratio meets the Standard; therefore, no recommendation is warranted.**

**Underwriting and Rating, Standard # 2 – failed**

**Preliminary Finding 008 – Unsigned UM/UIM Rejection Forms** – The Examiners identified 11 PPA new/renewal business and 23 PPA surcharge policies for a total of 34 policies missing or without a signed UM/UIM rejection form, when this signed form is required. The failure to retain completed and signed UM/UIM rejection forms is an apparent violation of A.R.S. § 20-259.01

**PRIVATE PASSENGER AUTOMOBILE  
Summary of Findings – Standard 2 File Review  
Failed to retain signed UM/UIM rejection forms  
A.R.S. § 20-259.01**

<b>Files Reviewed</b>	<b>Population</b>	<b>Reviewed</b>	<b>Exceptions</b>	<b>Request #</b>
PPA New/Renewal Business	3,617	50	11	006
PPA Surcharge Business	650	50	23	008
<b>Totals</b>	<b>4,267</b>	<b>100</b>	<b>34</b>	
			<b>Error Ratio</b>	<b>34%</b>

**A 34% error ratio does not meet the Standard; therefore, a recommendation is warranted.**

*Subsequent Events: During the exam period, the Company on October 14, 2014 sent out a “Breaking News Bulletin (BNB)” email communication to their Exclusive Agents reinforcing the importance of obtaining and retaining UM/UIM rejection forms within seven (7) days of policy issuance.*

*However, the Company as of June 30, 2015 has no active policies in Arizona.*

**Underwriting and Rating, Standard # 2 – failed**

**Preliminary Finding 011 – No Summary of Rights** – The Examiners identified seven (7) PPA surcharge policies where the Company failed to provide a Summary of Rights for an adverse underwriting decision that resulted in a premium increase. The failure to provide a Summary of Rights for an adverse underwriting decision is an apparent violation of A.R.S. § 20-2110.

**PRIVATE PASSENGER AUTOMOBILE**  
 Failed to provide Summary of Rights for premium increase  
 A.R.S. § 20-2110

Population	Sample	# of Exceptions	% to Sample
650	7	7	100%

**A 100% error ratio does not meet the Standard; therefore, a recommendation is warranted.**

**Underwriting and Rating, Standard # 5 – failed**

**Preliminary Finding 010 – Declaration Page Accident Points Incorrectly Listed** – The Examiners identified 3 PPA new/renewal and 19 PPA surcharge policies that listed / identified accident points as citation points on declaration pages for a total of 22 mislabeled policies. The failure to accurately reference accident points on PPA declarations pages is confusing and misleading and an apparent violation of A.R.S. § 20-443(A)(1).

**PRIVATE PASSENGER AUTOMOBILE**  
**Summary of Findings – Standard 5 File Review**  
Failed to correctly reference accident points on declaration page  
A.R.S. § 20-443(A)(1)

<b>Files Reviewed</b>	<b>Population</b>	<b>Reviewed</b>	<b>Exceptions</b>	<b>Request #</b>
PPA New/Renewal Business	3,617	3	3	006
PPA Surcharge Business	650	19	19	008
<b>Totals</b>	<b>4,267</b>	<b>22</b>	<b>22</b>	
			<b>Error Ratio</b>	<b>100%</b>

**A 100% error ratio does not meet the Standard; therefore, a recommendation is warranted.**

*Subsequent Events: The Company as of June 30, 2015 has no active policies in Arizona so no system changes will be made.*

**CANCELLATIONS AND NON-RENEWALS**

**Private Passenger Automobile (PPA):**

The Examiners reviewed 50 PPA cancellation files for non-payment of premium out of a population of 1,241, 50 PPA cancellation files for underwriting reasons out of a population of 90 and 6 PPA non renewals out of a population of 6. The cancellation and non renewal review included a total sample size of 106 PPA files from a total population of 1,337.

All cancellation files reviewed were to ensure compliance with Arizona Statutes and Rules.

**The following Cancellation and Non Renewal Standard failed:**

#	STANDARD	Regulatory Authority
1	Declinations, Cancellations and Non-Renewals shall comply with state laws and company guidelines including the Summary of Rights to be given to the policyholder and shall not be unfairly discriminatory.	A.R.S. §§ 20-448, 20-2108, 20-2109, 20-2110
2	Cancellations and Non-Renewal notices comply with state laws, company guidelines and policy provisions, including the amount of advance notice required and grace period provisions to the policyholder, nonrenewal based on condition of premises, and shall not be unfairly discriminatory.	A.R.S. §§ 20-191, 20-443, 20-448, 20-1631, 20-1632, 20-1632.01, 20-1651 through 20-1656

**Cancellation and Nonrenewal, Standard #1 - failed**

**Preliminary Finding 001 – Summary of Rights** – The Examiners identified six (6) PPA non renewal policies. These six (6) notices failed to provide a Summary of Rights language to its policyholders, an apparent violation of A.R.S. §§ 20-2108, 20-2109 and 20-2110.

**PRIVATE PASSENGER AUTOMOBILE**

Failed to Provide Summary of Rights

A.R.S. §§ 20-2108, 20-2109 and 20-2110

Population	Sample	# of Exceptions	% to Sample
6	6	6	100%

**A 100% error ratio does not meet the Standard; therefore, a recommendation is warranted.**

**Recommendation #1**

Within 90 days of the filed date of this Report provide the Department with documentation that Company procedures are in place so that a Summary of Rights is sent with all non renewals and uprated notices that involve an adverse underwriting decision by the Company.

*Subsequent Events: During the course of the Examination, the Company agreed with the Examiners. As of June 30, 2015 all policies have been converted to the MAPFRE auto program system where a compliant Summary of Rights is in use.*

**Cancellation and Nonrenewal, Standard #2 - failed**

**Preliminary Finding 002 – Private Passenger Automobile 7-Day Grace Period** – The Examiners identified 21 PPA Cancellations for non-payment of premium where the Company failed to provide the required 7-day grace period after the premium due date, an apparent violation of A.R.S. § 20-1632.01(A).

**PRIVATE PASSENGER AUTOMOBILE 7-DAY GRACE PERIOD**  
Failed to provide the required 7-day grace period for policies cancelled due to non-payment of premium  
A.R.S. § 20-1632.01(A)

<b>Population</b>	<b>Sample</b>	<b># of Exceptions</b>	<b>% to Sample</b>
1,241	50	21	42%

A 42% error ratio does not meet the Standard; therefore, a recommendation is warranted

**Recommendation #2**

Within 90 days of the filed date of this report provide the Department with documentation that Company procedures are in place to provide policyholders with the required 7-day grace period on Private Passenger Automobile cancellations for nonpayment.

*Subsequent Events: During the course of the Examination, the Company agreed with the Examiners. As of July 2014 the Company found and corrected the issue of not providing a 7-day grace period in their system.*

**Cancellation and Nonrenewal, Standard #2 - failed**

**Preliminary Finding 003 – Personal Automobile Non Renewal Notices Mailed less than 45-days**– The Examiners identified three (3) PPA non renewal notices, where the Company failed to mail non renewal notices at least 45-days before the effective date, an apparent violation of A.R.S. §§ 20-1631(E) and 20-1632(A).

**PRIVATE PASSENGER AUTOMOBILE NON RENEWALS**

Failed to provide non renewal notices at least 45-days before effective date  
A.R.S. §§ 20-1631(E) and 20-1632(A)

<b>Population</b>	<b>Sample</b>	<b># of Exceptions</b>	<b>% to Sample</b>
6	6	3	50%

**A 50% error ratio does not meet the Standard; therefore, a recommendation is warranted.**

**Recommendation #3**

Within 90 days of the filed date of this report provide the Department with documentation that Company procedures are in place to ensure the required 45-days is given on PPA Non Renewals.

*Subsequent Events: During the course of the Examination, the Company agreed with the Examiners. On August 25, 2015 the Company conducted Training with the Underwriting Staff that included procedures for mailing PPA Non Renewal notices at least 45-days before their effective date.*

**CLAIMS PROCESSING**

**Private Passenger Automobile (PPA):**

The Examiners reviewed 50 PPA claims closed without payment from a population of 157, 50 PPA paid claims from a population of 413, 34 total loss PPA claims out of a population of 34 and 37 PPA subrogation claims out of a population of 37. This claims review included a total sample size of 171 PPA claim files from a total population of 641.

All claim files reviewed were to ensure compliance with Arizona Statutes and Rules.

**The Following Claim Standards were met:**

#	STANDARD	Regulatory Authority
1	The initial contact by the Company with the claimant is within the required time frame.	A.R.S. § 20-461, A.A.C. R20-6-801
2	Timely investigations are conducted.	A.R.S. § 20-461, A.A.C. R20-6-801
4	Claim files are adequately documented in order to be able to reconstruct the claim.	A.R.S. §§ 20-461, 20-463, 20-466.03, A.A.C. R20-6-801
5	Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations.	A.R.S. §§ 20-268, 20-461, 20-462, 20-468, 20-469 and A.A.C. R20-6-801
6	The Company uses reservation of rights and excess of loss letters, when appropriate.	A.R.S. § 20-461, A.A.C. R20-6-801
8	The Company responds to claim correspondence in a timely manner.	A.R.S. § 20-461, 20-462, A.A.C. R20-6-801
9	Denied and Closed Without Payment claims are handled in accordance with policy provisions and state law.	A.R.S. §§ 20-461, 20-462, 20-463, 20-466, 20-2110, A.A.C. R20-6-801
10	No insurer shall fail to fully disclose to first party insureds all pertinent benefits, coverages or other provisions of an insurance policy or insurance contract under which a claim is presented.	A.A.C. R20-6-801
11	Adjusters used in the settlement of claims are properly licensed.	A.R.S. §§ 20-321 through 20-321.02

**The following Claims Processing Standard failed:**

#	STANDARD	Regulatory Authority
3	The Company claim forms are appropriate for the type of product and comply with statutes, rules and regulations.	A.R.S. §§ 20-461, 20-466.03, 20-2106, A.A.C. R20-6-801

**The following Claims Processing Standard passed with comment:**

#	STANDARD	Regulatory Authority
7	Deductible reimbursement to insured upon subrogation recovery is made in a timely and accurate manner.	A.R.S. §§ 20-461, 20-462, A.A.C. R20-6-801

**Claims Processing Standard #3 – failed**

**Preliminary Finding-004– Disclosure Authorization Forms- Claims** – The Examiners identified one (1) claim authorization form (shown in the table below) where the Company failed to:

- specify the authorization remains valid for no longer than the duration of the claim; and
- advise the individual or a person authorized to act on behalf of the individual that they are entitled to receive a copy of the authorization form.

This form failed to comply with A.R.S. § 20-2106 (8)(b) and (9) and represent two (2) violations of the statute. The following table summarizes the authorization form findings.

	Form Description / Title	Form #	Statute Provision
1	Authorization for Medical and Employment Information	Unknown	8(b) and 9

**CLAIM FORM**

Failed to specify the authorization remains valid for no longer than the duration of the claim  
Violation of A.R.S. § 20-2106(8)(b)

<b>Population</b>	<b>Sample</b>	<b># of Exceptions</b>	<b>% to Sample</b>
N/A	N/A	1	N/A

**Any error or exception identified in the areas of a procedure or forms use does not meet the Standard; therefore a recommendation is warranted.**

**CLAIM FORM**

Failed to advise the individual or a person authorized to act on behalf of the individual that they are entitled to receive a copy of the authorization form  
Violation of A.R.S. § 20-2106(9)

<b>Population</b>	<b>Sample</b>	<b># of Exceptions</b>	<b>% to Sample</b>
N/A	N/A	1	N/A

**Any error or exception identified in the areas of a procedure or forms use does not meet the Standard; therefore a recommendation is warranted.**

**Recommendation #4**

Within 90 days of the filed date of this Report, provide the Department with documentation that Company procedures are in place so the authorization form listed above includes the following

- specify the authorization remains valid for no longer than the duration of the claim; and
- advises the individual or a person authorized to act on behalf of the individual that the individual or the individual's authorized representative is entitled to receive a copy of the authorization form, in accordance with the applicable state statute.

*Subsequent Events: During the course of the Examination, the Company provided the corrected form to the Department prior to completion of the Examination and indicated it had been implemented on August 31, 2015.*

**Claims Processing Standard #7 –passed with comment:**

**Preliminary Finding-006 – PPA Subrogation-Delay in Returning Insured Deductible** –The Examiners identified one (1) PPA subrogation claim file, in which the Company failed to return the insured’s deductible in a timely manner after subrogation recovery was successful, which is an apparent violation of A.R.S. §§ 20-461, 20-462 and A.A.C. R20-6-801 (H)(4).

**PRIVATE PASSENGER AUTOMOBILE SUBROGATION CLAIMS**

Failed to return insured’s deductible in a timely manner  
A.R.S. §§ 20-461, 20-462 and A.A.C. R20-6-801 (H)(4).

<b>Population</b>	<b>Sample</b>	<b># of Exceptions</b>	<b>% to Sample</b>
37	37	1	3%

**A 3% error ratio meets the standards; therefore, no recommendation is warranted**

*Subsequent Events: During the course of the Examination, the Company agreed with the Examiners’ finding and issued a check to its insured in the amount \$500.00 plus \$69.04 in interest for a total of \$569.04. A copy of the letter of explanation and payment was sent to the Department prior to completion of the Examination.*

**SUMMARY OF FAILED STANDARDS**

<b>EXCEPTIONS</b>	<b>Rec. No.</b>	<b>Page No.</b>
<b>CANCELLATIONS AND NON RENEWALS</b>		
<u>Standard #1</u> Declinations, Cancellations and Non-Renewals shall comply with state laws and company guidelines including the Summary of Rights to be given to the policyholder and shall not be unfairly discriminatory.	1	18
<u>Standard #2</u> Cancellations and Non-Renewal notices comply with state laws, company guidelines and policy provisions, including the amount of advance notice required and grace period provisions to the policyholder, nonrenewal based on condition of premises, and shall not be unfairly discriminatory.	2	18
<u>Standard #2</u> Cancellations and Non-Renewal notices comply with state laws, company guidelines and policy provisions, including the amount of advance notice required and grace period provisions to the policyholder, nonrenewal based on condition of premises, and shall not be unfairly discriminatory.	3	19
<b>CLAIMS PROCESSING</b>		
<u>Standard #3</u> The Company claim forms are appropriate for the type of product and comply with statutes, rules and regulations.	4	23

**SUMMARY OF PROPERTY AND CASUALTY STANDARDS**

**Complaint Handling**

#	STANDARD	PAGE	PASS	FAIL
1	The Company takes adequate steps to finalize and dispose of the complaints in accordance with applicable statutes, rules, regulations and contract language. (A.R.S. § 20-461 and A.A.C. R20-6-801)	8	X	
2	The time frame within which the Company responds to complaints is in accordance with applicable statutes, rules and regulations. (A.R.S. § 20-461 and A.A.C. R20-6-801)	8	X	

**Marketing and Sales**

#	STANDARD	PAGE	PASS	FAIL
1	All advertising and sales materials are in compliance with applicable statutes, rules and regulations. (A.R.S. §§ 20-442 and 20-443)	8	X	

**Producer Compliance**

#	STANDARD	PAGE	PASS	FAIL
1	The producers are properly licensed in the jurisdiction where the application was taken. (A.R.S. §§ 20-282, 20-286, 20-287 and 20-311 through 311.03)	8	X	
2	An insurer shall not pay any commission, fee, or other valuable consideration to unlicensed producers. (A.R.S. § 20-298)	8	X	

**Underwriting and Rating**

#	STANDARD	PAGE	PASS	FAIL
1	The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the Company Rating Plan. (A.R.S. §§ 20-341 through 20-385)	12		X

#	STANDARD	PAGE	PASS	FAIL
2	Disclosures to insureds concerning rates and coverage are accurate and timely. (A.R.S. §§ 20-443, 20-259.01, 20-262, 20-263, 20-264, 20-266, 20-267 and 20-2110)	12		X
3	All forms and endorsements forming a part of the contract should be filed with the director (if applicable). (A.R.S. § 20-398)	12	X	
4	All mandated disclosures are documented and in accordance with applicable statutes, rules and regulations, including, but not limited to, the Notice of Insurance Information Practices and the Authorization for Release of Information. (A.R.S. §§ 20-2104, 20-2106, 20-2110 and 20-2113)	12	X	
5	Policies and endorsements are issued or renewed accurately, timely and completely. (A.R.S. §§ 20-1118, 20-1120, 20-1121, 20-1632 and 20-1654)	12		X
6	Rescissions are not made for non-material misrepresentations. (A.R.S. §§ 20-463 and 20-1109)	12	X	

**Declinations, Cancellation and Non-Renewals**

#	STANDARD	PAGE	PASS	FAIL
1	Declinations, Cancellations and Non-Renewals shall comply with state laws and company guidelines including the Summary of Rights to be given to the policyholder and shall not be unfairly discriminatory. (A.R.S. §§ 20-448, 20-2108, 20-2109 and 20-2110)	17		X
2	Cancellations and Non-Renewal notices comply with state laws, company guidelines and policy provisions, including the amount of advance notice required and grace period provisions to the policyholder, nonrenewal based on condition of premises, and shall not be unfairly discriminatory. (A.R.S. §§ 20-191, 20-443, 20-448, 20-1631, 20-1632, 20-1632.01, 20-1651 through 20-1656)	17		X

## Claims Processing

#	STANDARD	PAGE	PASS	FAIL
1	The initial contact by the Company with the claimant is within the required time frame. (A.R.S. § 20-461 and A.A.C. R20-6-801)	21	X	
2	Timely investigations are conducted. (A.R.S. § 20-461, and A.A.C. R20-6-801)	21	X	
3	The Company claim forms are appropriate for the type of product and comply with statutes, rules and regulations. (A.R.S. §§ 20-461, 20-466.03, 20-2106, and A.A.C. R20-6-801)	22		X
4	Claim files are adequately documented in order to be able to reconstruct the claim. (A.R.S. §§ 20-461, 20-463, 20-466.03 and A.A.C. R20-6-801)	21	X	
5	Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations. (A.R.S. §§ 20-268, 20-461, 20-462, 20-468, 20-469 and A.A.C. R20-6-801)	21	X	
6	The Company uses reservation of rights and excess of loss letters, when appropriate. (A.R.S. § 20-461 and A.A.C. R20-6-801)	21	X	
7	Deductible reimbursement to insured upon subrogation recovery is made in a timely and accurate manner. (A.R.S. §§ 20-461, 20-462 and A.A.C. R20-6-801)	22	X	
8	The Company responds to claim correspondence in a timely manner. (A.R.S. § 20-461, 20-462 and A.A.C. R20-6-801)	21	X	
9	Denied and closed without payment claims are handled in accordance with policy provisions and state law. (A.R.S. §§ 20-461, 20-462, 20-463, 20-466, 20-2110 and A.A.C. R20-6-801)	21	X	
10	No insurer shall fail to fully disclose to first party insureds all pertinent benefits, coverages, or other provisions of an insurance policy or insurance contract under which a claim is presented. (A.A.C. R20-6-801)	21	X	
11	Adjusters used in the settlement of claims are properly licensed (A.R.S. §§ 20-321 through 20-321.02)	21	X	

November 24, 2015

VIA ELECTRONIC AND OVERNIGHT MAIL

Ms. Helene I. Tomme, CPCU, CIE  
Market Examinations Supervisor  
Market Oversight Division  
Arizona Department of Insurance  
2910 North 44th Street, Suite 210  
Phoenix, Arizona 85018-7269

**AZ DEPT OF INSURANCE**

NOV 27 2015

**CONSUMER AFFAIRS DIVISION**

Re: Arizona Report of Target Market Conduct Examination  
Commerce West Insurance Company (NAIC #13161)  
Examination Period of January 1, 2014 through December 31, 2014

Dear Ms. Tomme:

Please accept this letter on behalf of Commerce West Insurance Company ("Commerce West" or "Company") in response to your letter, dated October 29, 2015, which enclosed a copy of the above noted Report of Target Market Conduct Examination ("Report"), and requested the Company's response.

Commerce West's management has reviewed the Report, which summarized the Arizona Department of Insurance's findings and recommendations, and the Company's corrective action, where applicable, following its examination of the Commerce West's private passenger automobile insurance operations during the 2014 calendar year. This letter is to inform you that Commerce West has no objections to the report. As the report sets forth, the Company exited the private passenger automobile insurance market as of June 30, 2015, the date by which all active policies had been converted to affiliate MAPFRE Insurance Company. This transfer appears to have resolved a number of issues where a recommendation would otherwise have been warranted.

Thank you and the examination team for your time and patience in undertaking this exam. If there are particular responses or matters you would like to further discuss, please feel free to contact me at (508) 949-4880.

Sincerely,



Barbara Petersen Law  
Vice President and  
Chief Regulatory Counsel

**AZ DEPT. OF INSURANCE**

NOV 27 2015

**MARKET OVERSIGHT DIV.**

**Commerce West Insurance Company**  
211 Main Street, Webster, MA 01570  
[www.mapfreinsurance.com](http://www.mapfreinsurance.com)



**Market Oversight Division  
Arizona Department of Insurance**

2910 North 44<sup>th</sup> Street, Suite 210, Phoenix, Arizona 85018-7269

Web: <https://azinsurance.gov> | Phone: (602) 364-4994 | Fax: (602) 364-2505

---

**Douglas A. Ducey, Governor  
Leslie R. Hess, Interim Director**

March 22, 2016

**FIRST CLASS MAIL**

Barbara Petersen Law  
Vice President and Chief Regulatory Counsel  
MAPFRE Insurance  
211 Main Street,  
Webster MA 01570

**RE: Target Market Conduct Examination,  
Commerce West Insurance Company, NAIC # 13161**

Dear Ms. Law:

The Arizona Department of Insurance would like to thank you for your November 24, 2015 letter in response to the Report of Target Market Conduct Examination, dated December 31, 2014. This letter will be filed with the report. A copy of the final version of the report, with the indicated filed date, is enclosed for your records.

We recognize and appreciate Commerce West Insurance Company's prompt corrective actions on the examination findings. The examiners found evidence that the company violated the following Arizona insurance law(s) and/or rule(s) during the period of the examination:

- ARS § 20-259.01 by failing to retain signed UM/UIM rejection forms, when a signed form is required. (Standard 2)
- ARS § 20-2110 by failing to provide private passenger automobile policyholders with a compliant Summary of Rights in the event of an adverse underwriting decision. (Standard 2)
- ARS § 20-443(A)(1) by failing to correctly reference accident points on private passenger automobile declarations pages. (Standard 5)
- ARS § 20-1632.01(A) by failing to provide the required 7-day grace period for policies cancelled due to non-payment of premium. (Standard 2)
- ARS §§ 20-1631(E) and 20-1632(A) by failing to provide non-renewal notices at least 45-days before effective date of non-renewal. (Standard 2)

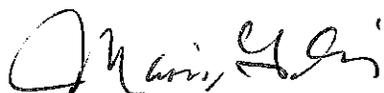
- ARS § 20-2106(8)(b) and (9) by using disclosure authorization forms that failed to specify the length of time the authorization remains valid, and advise the individual or persons authorized to act on behalf of the individual that they are entitled to receive a copy of the authorization form. (Standard 3)

The Department decided to file the Report of Target Market Conduct Examination because the Company corrected all noted exceptions during the examination.

This examination is now closed. We appreciate the cooperation of Commerce West Insurance Company and its staff during the examination process. Enclosed is a Post Examination Questionnaire. Your response to the questionnaire, under separate cover, to my attention would be greatly appreciated.

If you should have any questions or comments, please contact me at the number above or e-mail at [mailor@azinsurance.gov](mailto:mailor@azinsurance.gov)

Sincerely,



Maria G. Ailor, AIE, AMCM  
Market Analysis Supervisor