

STATE OF ARIZONA  
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DEPT. OF INSURANCE

**REPORT OF TARGET MARKET CONDUCT EXAMINATION**

**OF**

**AMERICAN COMMERCE INSURANCE COMPANY**

**NAIC #19941**

**AS OF**

**December 31, 2014**

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**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:

**American Commerce Insurance Company**  
**NAIC #19941**

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,

A handwritten signature in cursive script that reads "Helene I. Tomme".

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



## FOREWORD

This targeted market conduct examination report of the American Commerce Insurance Company (herein referred to as, "ACIC", 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 Automobile (PPA) and Homeowners (HO) 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)

American Commerce Insurance Company was incorporated on September 18, 1946 under the laws of Ohio as Automobile Club Insurance Company and began business March 19, 1947. In December 1988, the company was purchased by the American Automobile Association and California State Auto Association who maintained ownership until January 1999. In January 1999, the company was sold to ACIC Holding Co., Inc., formed November 2, 1998. The name was changed to American Commerce Insurance Company on April 14, 1999. Capital stock of \$3,226,140 consists of 107,53 common shares at \$30 per share. A total of 1,000,000 shares are authorized.

Effective January 1, 2002, the ownership interests in ACIC Holding Co., Inc. were recapitalized. At December 31, 2001, The Commerce Insurance Company (“Commerce”) maintained an 80% common stock interest, and AAA Southern New England (AAA-SNE) maintained a 20% common stock interest in ACIC Holding. Additionally, all ACIC Holding preferred stock was owned by Commerce. The recapitalization resulted in the redemption of all the ACIC Holding preferred stock by Commerce in exchange for 3,000 additional shares of ACIC Holding common stock. This resulted in Commerce increasing its ACIC Holding common stock interest to 95% with AAA-SNE maintaining a 5% common stock interest in ACIC Holding. The capitalization also resulted in the creation of \$4.5 million in minority interest for AAASNE.

In 2003, Commerce’s 95% ownership interest in ACIC Holding was transferred to Commerce Holdings, Inc., (“CHI”) an affiliated company, as part of a corporate reorganization. In December 2008, CHI’s 95% ownership interest in ACIC Holding was transferred to The Commerce Group Inc. Effective January 1, 2010, The Commerce Group, Inc. officially changed its name to MAPFRE U.S.A. Corp.

## **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 83 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, one (1) compliance issue is addressed in this Report as follows:

- The Company failed to provide eight (8) policyholders a Summary of Rights, when their policy premiums increased due to an adverse underwriting decision.

### **Cancellation and Non Renewals**

In the area of Cancellations and Non Renewals, two (2) compliance issues are addressed in this Report as follows:

- The Company failed to provide a Summary of Rights, on 1 PPA non renewal and 1 PPA underwriting cancellation for a total of two (2) notices.
- The Company failed to include the right to complain to the Director on 50 PPA non payment notices.

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

## **Claims Processing**

In the area of Claims Processing, seven (7) compliance issues are addressed in this Report as follows:

- The Company failed to specify the purposes for which the information is collected on three (3) claim authorization forms
- The Company failed to specify the length of time the authorization remains valid (shall be no longer than the duration of the claim) on five (5) claim authorization forms.
- 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 five (5) claim authorization forms.
- The Company failed to include a fraud warning statement in at least 12-point type on one (1) claim form.
- The Company failed to file and record documentation in such detail that pertinent events and the dates of such events could be reconstructed. This occurred in one (1) PPA CWP and six (6) HO CWP claim files for a total of seven (7) claim files.
- The Company failed to correctly calculate and pay the appropriate tax, license registration and/or air quality fees on one (1) PPA first party total loss settlement, which resulted in additional payment of \$20.73 (including interest).
- 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 \$551.64 (including interest).

FACTUAL FINDINGS

**RESULTS OF PREVIOUS MARKET CONDUCT EXAMINATIONS**

During the past 5 years, there was two (2) Market Conduct Examinations completed by the states of Connecticut and New York. No significant patterns of non-compliance were noted.

**UNDERWRITING AND RATING**

Homeowners (HO):

The Examiners reviewed 50 HO New/Renewal Business files out of a population of 4,006 during the examination period.

Private Passenger Automobile (PPA):

The Examiners reviewed 50 PPA New/Renewal Business files out of a population of 3,489 and 52 PPA Surcharge out of a population of 52 during the examination period. This New/Renewal and Surcharge review included a total sample size of 102 PPA files from a total population of 3,541.

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
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
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
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
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
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

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

**Preliminary Finding 014 – No Summary of Rights** – The Examiners identified eight (8) 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

<b>Population</b>	<b>Sample</b>	<b># of Exceptions</b>	<b>% to Sample</b>
52	8	8	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 submit documentation to the Department that it has procedures and controls in place to provide a Summary of Rights to policyholders when their policy premium increases due to an adverse underwriting decision.

*Subsequent Events: During the course of the Examination, the Company agreed with the Examiners and implemented a compliant Summary of Rights on its uprate notices on October 1, 2015.*

**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 167, 3 PPA cancellations for underwriting reasons out of a population of 3 and 2 PPA non renewals out of a population 2. The cancellation and non renewal review included a total sample size of 55 PPA files from a total population of 172.

**Homeowners (HO):**

The Examiners reviewed 50 HO cancellation files for non-payment of premium out of a population of 340, 31 HO cancellation files for underwriting reasons out of a population of 31 and 34 HO non renewals out of a population of 34. The cancellation and non renewal review included a total sample size of 115 HO files from a total population of 405.

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 one (1) PPA non renewal and one (1) PPA underwriting cancellation file for a total of two (2) notices. These 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  
Summary of Findings – Standard 1 File Review  
Failed to Provide Summary of Rights language  
A.R.S. §§ 20-2108, 20-2109 and 20-2110**

<b>Files Reviewed</b>	<b>Population</b>	<b>Reviewed</b>	<b>Exceptions</b>	<b>Request #</b>
PPA Non Renewals	2	2	1	009
PPA UW Cancels	3	3	1	011
<b>Totals</b>	<b>5</b>	<b>5</b>	<b>2</b>	
			<b>Error Ratio</b>	<b>40%</b>

**A 40% 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 so that a Summary of Rights is sent with all cancellation, non renewal or 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 and implemented in their system a compliant Summary of Rights on September 18, 2015 for PPA Non Renewals and PPA Underwriting Cancellations.*

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

**Preliminary Finding 002 – Private Passenger Automobile non payment cancellations failed to include the right to complain to the Director–** The Examiners identified 50 PPA non payment notices, where the Company failed to include the right to complain to the Director, an apparent violation of A.R.S. § 20-1632.01 (B).

**PRIVATE PASSENGER AUTOMOBILE CANCELLATIONS  
Failed to Include Right to Complain to the Director (Non Payment)  
A.R.S. § 20-1632.01 (B)**

<b>Population</b>	<b>Sample</b>	<b># of Exceptions</b>	<b>% to Sample</b>
167	50	50	100%

**A 100% 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 so that the required right to complain to the Director is provided on its personal automobile non payment cancellation notices.

*Subsequent Events: During the course of the Examination, the Company provided the Examiners with a corrected cancellation notice, which included the right to complain to the Director language. The Company implemented this notice on August 18, 2015.*

**CLAIMS PROCESSING**

Private Passenger Automobile (PPA):

The Examiners reviewed 50 PPA claims closed without payment from a population of 91, 50 PPA paid claims from a population of 245, 26 total loss PPA claims out of a population of 26 and 34 PPA subrogation claims out of a population of 34. This claims review included a total sample size of 160 PPA claim files from a total population of 160.

Homeowners (HO):

The Examiners reviewed 50 HO claims closed without payment from a population of 108, 50 HO paid claims from a population of 314 and 3 HO subrogation claims from a population of 3. This claim review included a total sample size of 103 HO claims files from a total population of 103.

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

**The Following Claim Standards were met:**

<b>#</b>	<b>STANDARD</b>	<b>Regulatory Authority</b>
<b>1</b>	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
<b>2</b>	Timely investigations are conducted.	A.R.S. § 20-461, A.A.C. R20-6-801
<b>6</b>	The Company uses reservation of rights and excess of loss letters, when appropriate.	A.R.S. § 20-461, A.A.C. R20-6-801
<b>8</b>	The Company responds to claim correspondence in a timely manner.	A.R.S. § 20-461, 20-462, A.A.C. R20-6-801
<b>9</b>	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
<b>10</b>	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
<b>11</b>	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
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

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

#	STANDARD	Regulatory Authority
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
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-006 – Disclosure Authorization Forms- Claims –** The Examiners identified five (5) claim authorization forms (shown in the table below) where the Company failed to:

- specify the purposes for which the information is collected; and
- 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.

These forms failed to comply with A.R.S. § 20-2106 (6),(8)(b) and (9) and represent 13 violations of the statute. The following table summarizes the authorization form findings.

	<b>Form Description / Title</b>	<b>Form #</b>	<b>Statute Provision</b>
1	Authorization for Medical and Employment Information AZ BI Ack Limit Rule 55 Ltr w HIPPA (Rev. 08/09)	Unknown	6, 8(b) and 9
2	Authorization to Release Policy Information Auth to Insd to Release Info (Rev. 09/09)	Unknown	8(b) and 9
3	Authorization to Release Information Credit Auth Cover and Form (Rev. 03/11)	Unknown	8(b) and 9
4	Authorization to Release Financial/Credit Information Credit Release Auth Ltr w Release (Rev. 03/14)	Unknown	6, 8(b) and 9
5	Authorization to Use or Disclose Protected Health Information AZ BI Ack Limit Rule 55 Ltr w HIPAA (Rev. 08/09)	Unknown	6, 8(b) and 9

**CLAIM FORM**

Failed to specify the purposes for which the information is collected

Violation of A.R.S. § 20-2106(6)

<b>Population</b>	<b>Sample</b>	<b># of Exceptions</b>	<b>% to Sample</b>
N/A	N/A	3	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 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	5	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)

Population	Sample	# of Exceptions	% to Sample
N/A	N/A	5	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 purposes for which the information is collected; and
- 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 forms to the Department prior to completion of the Examination and indicated it had been implemented on October 1, 2015.*

#### **Claims Processing Standard #3 – failed**

**Preliminary Finding 009 – Fraud Warning Statement** – The Company failed to provide a fraud warning statement in at least twelve (12) point type on one (1) claim form. This represents one (1) violation of A.R.S. § 20-466.03. The following table summarizes the fraud warning statement findings.

	Form Description / Title	Form Number
1	Insured Statement of Claim	UNK

### CLAIM FORMS

Failed to provide fraud warning statement in at least twelve (12) point type  
Violation of A.R.S. § 20-466.03

Population	Sample	# of Exceptions	% to Sample
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 #5**

Within 90 days of the filed date of this Report, provide the Department with documentation that the required fraud warning statement, in 12-point type, is included on the claim form cited above, 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.*

#### **Claims Processing Standard #4 – failed:**

**Preliminary Finding-010 – Missing File and Record Documentation:** The Examiners identified one (1) PPA CWP and six (6) HO CWP claims for a total of seven (7) claims, in which the Company failed to adequately document the claims in such detail that pertinent events and the dates of such events could be reconstructed. This action is an apparent violation of A.A.C. R20-6-801(C).

### PRIVATE PASSENGER AUTOMOBILE AND HOMEOWNERS' CLAIMS

Failed to adequately document  
A.A.C. R20-6-801(C)

Files Reviewed	Population	Reviewed	Exceptions	Request #
PPA CWP	91	50	1	003
HO CWP	108	50	6	012
<b>Totals</b>	<b>199</b>	<b>100</b>	<b>7</b>	
			<b>Error Ratio</b>	<b>7%</b>

**A 7% error ratio does not meet the Standard; therefore, a recommendation is warranted.**

#### **Recommendation #6**

Within 90 days of the filed date of this report provide the Department with documentation that the Company's claims procedures have been reviewed with all claims adjusters handling Arizona claims regarding adequately documenting claim files in such detail that pertinent events and

dates of such events can be reconstructed. In addition, provide documentation that re-training of claim adjusters handling Arizona claims has been completed where necessary or warranted.

*Subsequent Events: During the course of the Examination, the Company conducted a training session on August 20, 2015 with their claims adjusters and supervisors on the expectations of documenting all activities performed on a claim file and maintaining all correspondence.*

**Claims Processing Standard #5 – passed with comment**

**Preliminary Finding 011 –Total Loss Taxes and Fees** - The Examiners identified one (1) PPA first party total loss settlement, in which the Company failed to correctly calculate and pay appropriate tax, license registration and/or air quality fees. This resulted in one (1) first party total loss settlement being underpaid, an apparent violation of A.R.S. §§ 20-461(A)(6), 20-462(A) and A.A.C. R20-6-801 (H)(1)(b).

**PRIVATE PASSENGER AUTOMOBILE TOTAL LOSS CLAIMS**

Failed to correctly calculate and pay appropriate tax, license registration and/or air quality fees on total loss settlements

A.R.S. §§ 20-461(A)(6), 20-462(A) and A.A.C. R20-6-801 (H)(1)(b)

Population	Sample	# of Exceptions	% to Sample
26	26	1	4%

**A 4% error ratio does meet the standards; therefore, no recommendation is warranted.**

*Subsequent Events: During the course of the Examination, the Company agreed and paid one (1) PPA total loss incorrect settlement and made restitution to the first party total loss in the amount of \$18.48 plus \$2.25 in interest for a total of \$20.73. A copy of the letter of explanation and payment was sent to the Department prior to completion of the Examination.*

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

**Preliminary Finding-012 – 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).

Population	Sample	# of Exceptions	% to Sample
34	34	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 \$51.64 in interest for a total of \$551.64. 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>UNDERWRITING AND RATING</b>		
<u>Standard #2</u> Disclosures to insureds concerning rates and coverage are accurate and timely.	1	13
<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.	2	16
<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	17
<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	22
<u>Standard #3</u> The Company claim forms are appropriate for the type of product and comply with statutes, rules and regulations.	5	23
<u>Standard #4</u> Claim files are adequately documented in order to be able to reconstruct the claim.	6	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)	15		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)	15		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)	19	X	
2	Timely investigations are conducted. (A.R.S. § 20-461, and A.A.C. R20-6-801)	19	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)	20		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)	20		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)	20	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)	19	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)	20	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)	19	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)	19	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)	19	X	
11	Adjusters used in the settlement of claims are properly licensed (A.R.S. §§ 20-321 through 20-321.02)	19	X	

November 24, 2015

VIA ELECTRONIC MAIL AND OVERNIGHT DELIVERY

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

Re: Arizona Report of Target Market Conduct Examination  
American Commerce Insurance Company (NAIC #19941)  
Examination Period of January 1, 2014 through December 31, 2014

Dear Ms. Tomme:

Please accept this letter on behalf of American Commerce Insurance Company (“American Commerce” 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.

American Commerce’s management team 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 American Commerce’s private passenger automobile insurance and homeowners insurance operations during the 2014 calendar year.

This letter is to inform you that American Commerce objects to the Report’s conclusions with regard to Underwriting and rating, Standard #1. Specifically, the Company objects to Preliminary Finding -13 – Incorrect Premium Calculation to the extent such finding identified 12 PPA New/Renewal rating errors. To the contrary, American Commerce maintains that there is no basis to conclude that four (4) policies were rated incorrectly and that eight (8) policies were, in fact, rated in accordance with the Company’s approved rate manual at the time of the policies’ inceptions.

Each of the twelve policies at issue involve the Company’s use of information on consumer credit reports to rate policies. By way of background, the American Commerce introduced a Financial Merit Discount, effective February 1, 2001. The filing that introduced this discount is enclosed. Depending on an applicant’s<sup>1</sup> FM score at the time of new business, a risk would be assigned one of the following FM Levels:

---

<sup>1</sup> American Commerce also extended the program to its existing customers as of February 1, 2001. Insureds who requested the discount were assigned a discount based on the named insured’s FM score at the policy renewal date.

Financial Merit Level 1

The highest score represents approximately 14% of the population and will receive a 15% discount on bodily injury, property damage, uninsured motorists bodily injury, underinsured motorists bodily injury, medical payments, comprehensive and collision coverages. Qualifies policyholder for all rating tiers.

Financial Merit Level 2

Represents approximately 14% of the population and will receive a 7% discount. Qualifies policyholder for all rating tiers.

Financial Merit Level 3

Represents approximately 15% of the population and will receive a 3% discount. Qualifies policyholder for all rating tiers.

Financial Merit Level 4

Represents approximately 22% of the population and will receive no discount. Qualifies policyholder for Select and Standard rating tiers. A customer with Financial Merit Level 4 may qualify for the Special Select rating tier if they are a homeowner.

Financial Merit Level 5

This is the lowest score and represents about 7% of the population. Qualifies policyholder for only the Standard rating tier.

Financial Merit Level 6

This represents customers which no consumer credit report is available and receive no discount. Qualifies policyholder for the Select and Standard rating tiers. The policyholder may also qualify for Special Select if they are homeowner.

Financial Merit Level 7

This represents customers who have credit history, but not sufficient history from which to develop a score and will receive no discount. Qualified policyholder for the Select and Standard rating tiers. The policyholder may also qualify for Special Select if they are homeowner.

Assignment of FM Level was a one-time new business event, although the assigned Financial Merit Discount was to be (and is) applied at renewal. American Commerce does not have, nor does it ever have, a process in place to refresh or re-order credit on renewal.

This program remained in effect as initially filed until 2004, at which time the Company adopted the current ranges of eligibility for a particular FM Level. The changes were prospective for new

business; All legacy policies continued to be rated, or “grandfathered,” in accordance with the program applicable at the time the original FM Level was assigned.

With this background in mind, American Commerce respectfully requests that the Department reconsider the following twelve exceptions on Preliminary Finding 013:

4	NBRen-1	11-1692168	1/30/14 (2003)	Financial Merit (FM) score 0; FM Code FM3
5	NBRen-17	11-1659100	3/23/14 (2002)	FM score 0; FM Code FM1
6	NBRen-19	11-1804664	4/3/14 (2003)	FM score 0; FM Code FM1
7	NBRen-24	11-1825173	5/10/14 (2003)	FM score 0; FM Code FM1

The Company maintains that there is insufficient evidence to conclude that the premiums for these four policies were inaccurate. This conclusion has been reached solely on the fact that there was no record of the raw FM Score used to assign FM Level at policy inception. (The year of policy inception is set forth under the effective date of the sample reviewed.) American Commerce maintains, however, that this, in itself, does not establish a rating error. In fact, the three FM1 policies are receiving the highest Financial Merit Discount for which they qualify and the FM3 policy also qualifies for a discount. It is unlikely that the Company would have slotted the risks in the respective levels without a corresponding score.

Unfortunately, due to the age of the policies, the Company cannot currently state why no raw score was available in its files. There is the suggestion that, at the time, it was the vendor’s practice to automatically assign an FM level without providing the score to the Company, but this has not been confirmed to date.

If the Company were to adjust rates based on the lack of documentation, all policyholders would experience an increase in premium. Similarly, if a new, current score was obtained, only the FM3 Level policy would stand to see a possible premium increase, but even this would not be consistent with the Company’s rating practices, which are to assign FM Level at new business.

Under the circumstances, the Company maintains that it is inappropriate to find these four policies to be exceptions related to incorrect premium calculations.

9	NBRen-49	11-2643409	12/12/14	FM score 0; FM Code FM7
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American Commerce disagrees that there is a rating error associated with the above policy. There is no FM Score on file. However, this is consistent with the rating of the policy since FM7 represents a “no score” FM Level and there is, consequently, no Financial Merit Discount applied. As such, the Company maintains that it is inappropriate to find this policy to be an exception related to an incorrect premium calculation.

	ADOI ID #	Policy #	Inception Date	Eff Date	Score	Co Code	Exmr Code
18	NBRen-2	10-202929263	8/15/94	2/15/14	769	3	1
19	NBRen-5	11-1588333	8/21/02	2/21/14	750	3	2
20	NBRen-6	11-1809010	2/22/03	2/22/14	797	2	1
21	NBRen-21	11-1132908	4/20/01 <sup>2</sup>	4/20/14	774	3	1
22	NBRen-28	11-1308468	12/2/01	6/2/14	744	3	2
23	NBRen-29	11-1742187	12/11/02	6/11/14	824	2	1
24	NBRen-41	11-1655942	10/8/02	10/8/14	713	4	3

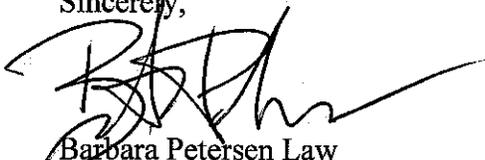
Finally, American Commerce believes that it was an error for the examiner to conclude that the above seven policies were rated incorrectly because the FM Scores did not align with the ranges for the Company's current FM Levels. This conclusion does not take into account the fact that the policies were first written under the initial Financial Merit Program, and, therefore, assigned FM Levels in accordance with the 2001 eligibility ranges. As stated, the changes to the FM Level eligibility rating levels that were put in place in 2004 applied prospectively to new business. All policies prior to that time remained at the FM Levels to which the policies were originally assigned.

If the Department reviews the ranges set forth on Exhibit Q to the 2001 filing, it will see that the Company's FM Level on the above seven policies was correctly assigned based on the range then in effect. Because it was never American Commerce's practice to update FM Level assignments on renewal, the premiums calculated for these policies are correct.

Thank you in advance for considering the Company's objection to Underwriting and Rating, Standard #1, including the removal of the twelve noted exceptions from the Report. Except as outlined above, American Commerce has no other objections to the Report.

Thank you and the examination team for your time and patience in undertaking this exam. If you have any questions or would like to further discuss the Company's objection, please do not hesitate to contact me at (508) 949-4880.

Sincerely,



Barbara Petersen Law  
Vice President and  
Chief Regulatory Counsel

<sup>2</sup> Please note that this is the correct inception date for this policy. The chart set forth in the examiners findings sheet incorrectly stated that the inception date was 4/20/14.

**American Commerce Insurance Company**

Insuring AAA Members since 1946

3590 Twin Creeks Drive  
 P.O. Box 182579  
 Columbus, Ohio 43218-2579  
 614-272-6951

November 10, 2000

Honorable Charles Cohen  
 Director of Insurance  
 Arizona Department of Insurance  
 2910 North 44<sup>th</sup> Street, Suite 210  
 Phoenix, Arizona 85018-7256

Attention: Property and Casualty Section

Subject: Private Passenger Automobile Rate/Rule Filing  
 Effective Date: February 1, 2001

NAIC 1994I

"This acknowledges receipt of your filing. Pursuant to ARS § 20-385(A), Arizona is a "use and file" state. Therefore, no further acknowledgement will be forthcoming unless the Director finds that a rate does not comply with ARS § 20-383 in which case the Director must issue an Order disapproving the rate. The Order will state that, within thirty days after the Order is issued, the rate is no longer effective; and, no policy issued prior to the effective date of the Order is affected."

Dear Honorable Cohen,

American Commerce Insurance Company hereby files to amend our Private Passenger Automobile Program with an effective date of February 1, 2001 for new business and renewals.

The overall premium impact and the individual coverage impacts for the changes we are proposing are broken out as follows:

	Base Rate and M/Yr Sym									
	Deductible	Increased Limits	Golf Carts	Plan Deviation	Class Factors	Territory Relativity	(2000/2) Rebasng	Excess Towing	At-Fault Surcharges	Overall Impact
BI	0.00%	-2.85%	-0.04%	-0.67%	1.28%	-9.55%	0.00%	0.00%	-0.03%	-11.47%
PD	0.00%	0.00%	-0.04%	-0.69%	1.28%	7.79%	0.00%	0.00%	-0.03%	8.35%
UMB	0.00%	0.00%	0.00%	0.00%	0.00%	-0.84%	0.00%	0.00%	0.00%	-0.84%
UDB	0.00%	0.00%	0.00%	0.00%	0.00%	5.45%	0.00%	0.00%	0.00%	5.45%
MP	0.00%	0.00%	0.00%	-0.68%	1.28%	6.96%	0.00%	0.00%	-0.03%	7.56%
Comp	1.48%	0.00%	-0.04%	-0.59%	1.28%	3.69%	0.00%	0.57%	-0.03%	6.48%
Coll	-0.10%	0.00%	-0.04%	-0.61%	1.28%	0.36%	0.00%	0.00%	-0.03%	0.86%
	0.19%	-0.90%	-0.03%	-0.59%	1.17%	-1.11%	0.00%	0.08%	-0.02%	-1.14%

**Class Factor Changes**

We are revising the 803 class factor, age 75 and over, from .85 to .94; revising the 802 class factor, age 65 to 74, from .85 to .88; and revising the 801 class factor, age 50 to 64 from .90 to .87. These changes more closely align us with our current competition. The revised factors are shown in Exhibit K.

**Base Rates and Territory Definition changes**

We are revising the base rates and territory relativity factors. The territory definition and relativity changes are based on a combination of company loss ratio data, competitive positioning, creation of six new territories in the state, target market definition, and location of AAA agencies. We reviewed our own company results by territory and zip code to determine if our rates are positioned correctly by territory. We also reviewed definitions and relativities for both agency competitors and top market leaders to determine our competitive position. Some Pima County zips previously coded in Remainder of State are being realigned into the Pima County zips. Because we use zip code territory definitions in our rating manual, we must also define any new zip codes created by the postal service. Finally, we have identified target markets, by using both loss ratio and market demographic data, as well as the location of the AAA agencies. The zip codes and counties that are being realigned are shown in Exhibit N. The territory percentage differences are shown by coverage and territory in Exhibit M.

**Comprehensive and Collision Deductibles**

We are revising the following deductible factors: comprehensive actual cash value deductible from 1.25 to 1.49, collision \$50 deductible from 1.25 to 1.56, and the collision \$1,000 deductible from .60 to .55. The factors are shown on Exhibit I.

NOV 13 2000

November 10, 2000  
Arizona Department of Insurance  
Page 2

**Bodily Injury Increase Limit Factors**

We are decreasing our increase limits factors for bodily injury to 1/4 way to one of our major competitors. Our proposed factors compared with those of our competitor are shown on Exhibit J.

**Golf Carts**

We are reducing our golf carts bodily injury and property damage base rates by 50%, comprehensive by 20%, and collision by 40%. The premium impact and proposed factors are shown on Exhibit O.

**Model Year/Symbol factors**

We are proposing to rebase our model year symbol factors to symbol 2, model year 2000. We have applied off-balance factors to our current base rates to yield a revenue neutral premium impact for the model year symbol conversion. The new factors can be found on Exhibits H1 and H2.

**Rental Reimbursement Charge**

The policy language now includes rental reimbursement in the basic policy coverages. We are building the current \$2.50 charge back into the comprehensive base rate with an off-balance factor to yield a revenue neutral premium for this change.

**Plan Deviations**

We are revising our Standard tier factor from 2.00 to 1.25. The premium impact and percentage differences in the plan are shown on Exhibit L.

**At-Fault Accident Points**

We are decreasing our at-fault accident surcharges in our Standard Plan. Please see Exhibit P for the factors.

**Accident Threshold**

We are increasing our accident threshold from \$500 to \$1,000.

**Excess Towing**

We are amending the \$0.25 excess towing to \$1.00 in the Select and Special Select rating plans. It is currently \$1.00 in our Standard Plan and also \$1.00 in all plans in our other states.

**Monthly Payment Plan Option and fees**

We have revised Rule 60 - Budget Payment Plans, page 26, by adding a Monthly Payment option. We have revised our service fee to \$3.00 (currently \$2.50) and included a non-sufficient funds fee (NSF) of \$20.00 for returned checks and failed Automated Clearing House (ACH) sweeps.

Exhibit S shows supporting data for the \$20.00 NSF fee. Our premiums are dollar rounded, so the installment fee should also be dollar rounded. This is the reason for the increase in our installment fee from \$2.50 to \$3.00.

**Tier Placement Rule**

We are producing one set of rate pages and adding Rule 14 in the Supplementary Rate pages to show the factors between the tiers. Rule 14, B. 4, refers to the Supplementary Rate pages.

**Credit Scoring**

We are introducing a Financial Merit Discount in Arizona. We are enclosing our updated underwriting guidelines and rules pertaining to the new discounts. The program is described in Exhibits P and Q.

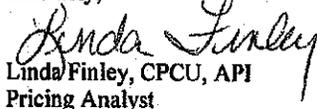
**Effective Date**

We will begin using the above changes with new and renewal business effective February 1, 2001.

A filing index has been included, which shows what material is included with the filing.

If you have any questions please contact me at 1-800-282-2913, extension 328 or email lfinley@acilink.com.

Sincerely,

  
Linda Finley, CPCU, API  
Pricing Analyst

**American Commerce Insurance Company  
Financial Merit Proposal**

American Commerce Insurance Company hereby files revised automobile rules and guidelines to include a Financial Merit discount, based upon credit scoring for new and renewal business effective on and after the effective date of this filing.

Our decision to implement this discount program is based upon research regarding the relationship between a customers credit information and their subsequent loss activity.

We have chosen the Choicepoint Attract Standard Auto Scoring model to apply credit scores. This analysis is shown in Exhibit Q.

This discount is objective and will be applied to all eligible new business. All new business will receive a score based risk assessment, based exclusively upon consumer credit information. Existing customers will be notified in renewals about the availability of the Financial Merit Discount and their option to apply for the discount through their agent.

The handling of Financial Merit levels is described below by level, in order of the highest scoring group to the lowest scoring group:

Financial Merit Level 1

The highest score represents approximately 14% of the population and will receive a 15% discount on bodily injury, property damage, uninsured motorists bodily injury, underinsured motorists bodily injury, medical payments, comprehensive and collision coverages. Qualifies policyholder for all rating tiers.

Financial Merit Level 2

Represents approximately 14% of the population and will receive a 7% discount. Qualifies policyholder for all rating tiers.

Financial Merit Level 3

Represents approximately 15% of the population and will receive a 3% discount. Qualifies policyholder for all rating tiers.

Financial Merit Level 4

Represents approximately 22% of the population and will receive no discount. Qualifies policyholder for Select and Standard rating tiers. A customer with Financial Merit Level 4 may qualify for the Special Select rating tier if they are a homeowner.

Financial Merit Level 5

This is the lowest score and represents about 7% of the population. Qualifies policyholder for only the Standard rating tier.

Financial Merit Level 6

This represents customers which no consumer credit report is available and receive no discount. Qualifies policyholder for the Select and Standard rating tiers. The policyholder may also qualify for Special Select if they are homeowner.

Financial Merit Level 7

This represents customers who have credit history, but not sufficient history from which to develop a score and will receive no discount. Qualifies policyholder for the Select and Standard rating tiers. The policyholder may also qualify for Special Select if they are homeowner.

We arrived at the discount levels by conducting a retrospective analysis of our business. We looked at all business effective in 1996. We recorded all earned premiums and incurred losses for the period 1996 through 1998 to develop loss frequency, severity and loss ratio by scoring range. We used company wide results to permit a credible examination. These are shown in Exhibit Q.

**Credit Scoring Retrospective Analysis  
Companywide Automobile  
Using Attract Standard Auto Scoring Model**

Scoring Group	Minimum - Maximum Score	Number of Policies	Non Cat		Non Cat Loss Severity	Non Cat Loss Ratio	Loss Ratio	Claim Frequency	Frequency Relativity	Proposed Discount
			Severity Relativity	Loss Ratio						
All	347-999	109,504	1532	1.00	53.4%	1.00	0.77	1.00	1.00	0%
0	347-615	7,884	1586	1.00	75.3%	1.00	0.87	1.00	1.00	0%
<b>Base</b>										
1	616-667	7,991	1524	0.96	62.9%	0.84	0.88	1.00	1.00	
2	668-702	7,900	1482	0.93	56.3%	0.75	0.87	0.99	0.99	
3	703-731	7,863	1534	0.97	53.8%	0.71	0.82	0.94	0.94	
FM4	616-731	23,754	1513	0.95	57.5%	0.76	0.85	0.98	0.98	0%
4	732-757	7,911	1540	0.97	52.3%	0.69	0.81	0.93	0.93	
5	758-781	7,917	1502	0.95	48.3%	0.64	0.76	0.87	0.87	
FM3	732-781	15,828	1522	0.96	50.3%	0.67	0.79	0.90	0.90	-3%
6	782-808	7,796	1564	0.99	51.1%	0.68	0.79	0.91	0.91	
I	809-842	7,905	1498	0.94	46.7%	0.62	0.75	0.86	0.86	
FM2	782-842	15,701	1532	0.97	48.9%	0.65	0.77	0.88	0.88	-7%
8	843-894	7,815	1551	0.98	43.9%	0.58	0.68	0.77	0.77	
9	895-997	7,775	1533	0.97	43.6%	0.58	0.68	0.78	0.78	
FM1	843-894	15,590	1542	0.97	43.8%	0.58	0.68	0.78	0.78	-15%

10040010152

## ARIZONA MARKET CONDUCT EXAMINATION

**TO:** Helene Tomme, Market Oversight Supervisor

**FROM:** Chris Hobert and William Hobert, Market Conduct SR. Examiners

**RE:** American Commerce Insurance Company, NAIC #19941;  
Response to Company's Letter of Objection/Comments

**DATE:** December 2, 2015

American Commerce Insurance Company ("Company" or "ACIC") submitted its formal response, dated November 24, 2015, to the recent Report of Market Conduct Examination (Report). The following issues were included in the Company's response by Barbara Petersen Law, Vice President and Chief Regulatory Counsel will be addressed in the same order as submitted.

As a result of the November 24, 2015 Letter of Objection/Comments, the Examiners reviewed each issue again to determine if the Company had presented any new information to support a change in their decisions. Excerpts from the Market Conduct Report of Examination and responses from the Company and the Examiners are shown below. The examination period covered January 1, 2014 through December 31, 2014.

### **Underwriting and Rating Standard #1**

**Preliminary Finding 013 –Incorrect Premium Calculation** - The Examiners identified 15 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.

**Company Response:** The Company disagreed with the Examiners and provided additional documentation showing a filing from November 10, 2000 to the ADOI that illustrates how the Financial Merits would be applied for new and renewal business. This program remained in effect until 2004.

**Examiner Response:** The Examiners agree with the Company's position and have amended the "Draft" Report to reflect the same.

**SUMMARY**

This concludes the Examiner's response to the Company's Letter of Objection/Comments. If we can be of any further assistance in finalizing this exam, please let us know. Thank you.

---



**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

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

March 22, 2015

**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,  
American Commerce Insurance Company, NAIC # 19941**

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 American Commerce 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:

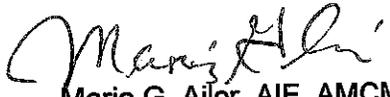
- ARS § 20-2110 by failing to provide private passenger automobile policyholders with a compliant Summary of Rights in the event of an adverse underwriting decision. (Standard 1)
- ARS § 20-1632.01(B) by using non-payment cancellation notices that failed to include the right to complain to the Director. (Standard 2)
- ARS § 20-2106(6), (8)(b) and (9) by using disclosure authorization forms that failed to specify the purposes for which the information is collected, 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)
- ARS § 20-466.03 by using a claim form that failed to include a compliant fraud warning notice. (Standard 3)
- AAC R20-6-801(C) by failing to adequately document claim files in such detail that pertinent events and the dates of such events can be reconstructed. (Standard 4)

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 American Commerce Insurance Company and its staff during the examination process. Enclosed is a Post Examination Questionnaire. Your response to the questionnaire, under separate cover, 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