



NATALIE A. HUBLEY
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

101 Arch Street, Suite 400 Boston, Massachusetts 02110
www.commauto.com 617-338-4000

NOTICE OF MEETING

COMMERCIAL AUTOMOBILE COMMITTEE

A meeting of the Commercial Automobile Committee will be held at the Automobile Insurers Bureau Conference Center at 101 Arch Street, 7th Floor, Boston, on

THURSDAY, SEPTEMBER 14, 2017 at 1:00 P.M.

MEMBERS OF THE COMMITTEE

Thomas DePaulo – Chair
Meridian Insurance Agency, LLC

Ms. Elizabeth Brodeur	Safety Insurance Company
Ms. Sheila Doherty	Doherty Insurance Agency, Inc.
Mr. Michael Faron	The Norfolk & Dedham Group
Mr. Coleman Johnson	The Hanover Insurance Company
Mr. Richard Jones	Leslie S. Ray Insurance Agency, Inc.
Mr. Dennis Morris	Arbella Insurance Group
Mr. John Olivieri, Jr.	J.K. Olivieri Insurance Agency, Inc.
Mr. Thomas Skelly, Jr.	Deland, Gibson Insurance Associates, Inc.
Ms. Wendy Stearns	MAPFRE U.S.A. Corporation
Mr. Barry Tagen	Pilgrim Insurance Company

AGENDA

CAC

17.01 Records of Previous Meeting

The Records of the Commercial Automobile Committee meeting of August 9, 2017 should be read and approved.

CAC

17.03 CAR Conflict of Interest Policy

The Chair will read a statement relative to CAR's Conflict of Interest Policy.

CAC

17.13 Arbella Protection Insurance Company – Request for Review

Attached is correspondence from Ms. Roberta Fitzpatrick, representing the Arbella Protection Insurance Company. Arbella is requesting redistribution of commercial residual market business to maintain equity among Servicing Carriers and reimbursement for extraordinary expenses incurred by the company. (Docket #CAC17.13, Exhibit #1)

Other Business

To transact any other business that may properly come before this Committee.

Executive Session

The Commercial Automobile Committee may convene in Executive Session in accordance with the provisions of G.L. c. 30A, § 21.

JOHN METCALFE
Director – Residual Market Services

Attachment

Boston, Massachusetts
August 24, 2017

LAW OFFICES OF ROBERTA FITZPATRICK

101 ARCH STREET, SUITE 1761
BOSTON, MASSACHUSETTS 02110
617 769-3500 | 617 946-0569 (Fax)

Roberta R. Fitzpatrick | 617 769-3511
Roberta.Fitzpatrick@arbella.com

July 6, 2017

VIA EMAIL AND FIRST CLASS MAIL

Mr. John Metcalfe
Commonwealth Automobile Reinsurers
101 Arch Street, Suite 400
Boston, Massachusetts 02110

Re: Arbella Protection Insurance Company's Request for Redistribution of CAR Commercial Business to Maintain Equity Among Limited Servicing Carriers And Request for Reimbursement of Extraordinary Expense

Dear Mr. Metcalfe:

The CAR marketplace is approaching the one year anniversary of the termination of the commercial appointment of the Rapo and Jepsen Insurance Agency. During this one year period, Arbella has utilized all appropriate tools available to it to try and rectify the problems created by the fraudulent scheme that gave rise to the termination.

As CAR is aware, following the termination notice, Rapo and Jepsen sold its commercial book of business, and other assets, to a former Rapo and Jepsen employee, Bruno Rozembarque, who, on the heels of the termination notice, established a new agency called Point Insurance Agency.

Point and Mr. Rozembarque were at all times aware of the issues that gave rise to the termination of Rapo and Jepsen, and Point Insurance, through counsel, requested guidelines for the stated purpose of trying to avoid the concerns created by the course of conduct engaged in by the Rapo Agency.

Arbella developed the requested guidelines to address the fraud in the book of the business and has attempted to work with Point to implement those guidelines. In addition, Arbella developed a renewal application that was designed to assist in determining if the accounts at issue were legitimate commercial accounts.

As a result of Arbella's efforts, much of the business that either was not genuinely commercial business or that had operators who were not validly licensed to drive under Massachusetts laws, has been non-renewed. Arbella has worked diligently to comply with its obligations as a Servicing Carrier and in doing so has incurred extraordinary expense in implementing the guidelines, attempting to obtain fresh information on renewal and in investigating accounts.

In addition, Point sued Arbella in multiple forums (including actions brought in the Division of Insurance, the Superior Court and CAR), in an effort to enjoin Arbella's efforts to ferret out the fraudulent accounts in the Rapo book of business that Point acquired. Arbella incurred extraordinary expense defending against the substantial litigation initiated by Point.¹

Further, as the market approaches the one year period following the termination of the Rapo Agency, it is evident that the termination and implementation of tools to help ferret out the non-commercial accounts have resulted in an inequitable distribution of business among the Limited Servicing Carriers in contravention of the Limited Servicing Carrier Program which requires that equity be maintained among the carriers.

CAR Rule 13 calls for rebalancing of commercial residual market business to maintain equity among the Limited Servicing Carriers.

Arbella is aware that there was a specific redistribution of CAR commercial business effective 1/1/2017 to address the fact that Travelers exited the Limited Servicing Carrier Program and Pilgrim re-entered the program. Further, Arbella is aware that Rule 13 permits redistribution as necessary 12 reporting months following a prior redistribution.

Arbella submits that in light of the unique circumstances at issue, both extraordinary expense reimbursement and redistribution is appropriate at this time. In particular, Arbella requests that CAR take into account the following factors in granting this request:

- (1) The extraordinary effort that went into establishing the pattern of fraudulent conduct;
- (2) The subsequent appointment of a Rapo and Jepsen employee to service the Rapo book of business and the failure and refusal of the successor Agency to work with Arbella to address the fraud;
- (3) The extraordinary efforts undertaken by Arbella in managing the situation, including the development of unique guidelines, the development of a renewal application designed to assist in the process, and the expense associated with implementation of these tools to fight fraud, and
- (4) The defense of significant litigation.²

As to redistribution/rebalancing, Arbella submits that a review of the total premium in the CAR commercial market over the 12 month period between the termination and the present and a

¹ Arbella successfully defended the CAR, DOI and Superior Court proceedings and now is awaiting a decision from the Division of Insurance on Point's appeal of the CAR Decision which held that the procedures implemented by Arbella were neither unfair, unreasonable nor improper.

² Although Arbella incurred significant extra expense in connection with its investigation and termination of the Rapo and Jepsen Insurance Agency, Arbella is not seeking reimbursement of any of that expense. However, the expense incurred following that termination and necessitated by the expansive fraud within the book of business and the conduct of the former Rapo and Jepsen employee who established Point Insurance, (including the pursuit of protracted unsuccessful litigation against Arbella and resisting the procedures put in place by Arbella) warrants reimbursement of the extraordinary expense incurred following the appointment of the Point Insurance Agency. Arbella would be pleased to submit an accounting relative to the extraordinary expense at issue.

comparison of the distribution of that premium among the Limited Servicing Carriers based on available data evidences the appropriateness of a redistribution at this time.

Arbella further submits that the redistribution which is in process relative to the Travelers/Pilgrim run-off is a discreet redistribution which need not and should not unfairly limit Arbella's rights to an equitable distribution, particularly given the efforts undertaken by Arbella relative to its obligations as Servicing Carrier and the uniqueness of the current situation.

Finally, Arbella suggests that such reimbursement and rebalancing is appropriate to avoid a financial disincentive relative to those situations that warrant genuinely extraordinary fraud-fighting expense and a delay in reviewing the available data and a delay in beginning the redistribution process would be inequitable under the circumstances.

Kindly direct this attention to the appropriate CAR Committee for consideration upon CAR's receipt of this request.

Should you have any questions or if you would like to discuss this matter further, please feel free to contact me. Thank you.

Very truly yours,



Roberta Fitzpatrick

RRF/jpc
cc: Eileen Currie