



NATALIE A. HUBLEY
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

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RECORDS OF MEETING

GOVERNING COMMITTEE REVIEW PANEL – AUGUST 31, 2017

Members Present

Mr. James Hyatt – Chair
Mr. Thomas Harris⁽¹⁾
Mr. John Olivieri, Jr.

Arbella Insurance Group
Quincy Mutual Group
J.K. Olivieri Insurance Agency, Inc.

Substituted for:

⁽¹⁾Mr. John Kelly

MAPFRE U.S.A. Corporation

Not in Attendance:

N/A

17.01 Records of Previous Meeting

The Committee unanimously voted to approve the Records of the Governing Committee Review Panel meeting of January 31, 2017. The Records have been distributed and are on file.

17.05 Patriot PCL Insurance, LLC/Safety Insurance Company

Patriot PCL Insurance is appealing the June 21, 2017 decision of the Market Review Committee in denying its request for relief from the termination action of the Safety Insurance Company in which Safety terminated the agency's commercial automobile and taxi and limousine Exclusive Representative Producer appointments for violations of various sections of CAR Rule 14.B. and Safety's Commercial and Taxi/Limo Agreements.

Mr. John Metcalfe provided the Panel with information relative to the appeal. He noted that Mr. Ricardo De Oliveira, President of Patriot PCL Insurance, had previously filed a Request for Review/Relief contesting the termination of the agency's commercial automobile and taxi/limo Exclusive Representative Producer appointments by the Safety Insurance Company. The Market Review Committee, at its June 21, 2017 meeting, considered the merits of the agency's appeal and agreeing that Safety's termination of Patriot PCL Insurance Agency's Exclusive Representative Producer appointments was not unfair, unreasonable or improper, the Market Review Committee voted to uphold Safety's termination of the agency. Mr. De Oliveira is now appealing the decision of the Market Review Committee to the Governing Committee Review Panel. Mr. Metcalfe indicated that the Panel should consider whether or not the termination should be upheld based on the grounds stated in the notice of

termination. Each alleged violation should be considered individually to determine whether each was a valid basis for termination, and to determine whether Safety's termination of the agency's commercial automobile and taxi and limousine Exclusive Representative Producer appointments was unfair, unreasonable or improper.

Mr. De Oliveira noted that his attorney, Mr. Andrew Lattarulo, was not able to be present at the meeting, and as he was not prepared to represent himself, he requested a continuance of the hearing. However, Mr. Steven Torres, counsel for CAR, indicated that he had been advised by Mr. Lattarulo on August 28, 2017 that his firm no longer represents Patriot PCL Insurance in this matter. In response to the agent's assertion that he had not been notified by his attorney that representation had been withdrawn, Mr. Torres provided the Panel with an email received by CAR from Mr. Lattarulo, as well as a verbal phone confirmation from Mr. Lattarulo indicating his notification to his client. Mr. De Oliveira indicated that he had never been notified by Mr. Lattarulo that his firm's representation of Patriot PCL Insurance had been withdrawn. Mr. Torres indicated to the Panel that they may consider the request for continuance with the discretion to either grant the continuance or proceed with the appeal.

Ms. Elizabeth Brodeur, representing Safety in this matter, stated that Safety was prepared to go forward with the hearing and she did not believe that the requested continuance was warranted, noting that the violations that formed the basis for termination continue to occur as documented in the supporting material provided by Safety to both the Market Review Committee and the Governing Committee Review Panel. Ms. Brodeur further indicated that although Safety was prepared to move forward with the appeal, she wanted to assure that potential procedural concerns were addressed and that the record relative to the appeal is strong in case the appeal should proceed further.

The Panel discussed its options and expressed concern that given Safety's documentation of continued violations, a further delay may result in undue burden on both the company and its insureds. Keeping in mind that CAR committees are obligated to operate and act in the best interests of CAR and the motoring public, the Panel unanimously denied Mr. De Oliveira's request for a continuance.

Ms. Brodeur requested the Panel to affirm the decision of the Market Review Committee and uphold Safety's termination of the Patriot PCL Insurance's commercial automobile and taxi and limousine Exclusive Representative Producer appointments. She noted that the agency's non-compliance with CAR Rules and Safety's policies and procedures has been a longstanding issue that Safety has been working with the agency to resolve. In spite of the fact that Safety conducted several meetings with the agency to review its expectations as to the handling of business with the agency's staff and to answer any questions, the agency's pattern of non-compliance continued. Since the issuance of the termination letter, there has been no change in the agency's behavior and the violations forming the basis of the termination have continued to occur and will likely continue until the status of the agency is resolved. The agency has continued to submit insufficient down payments or no down payments, late submissions of new business, and bounced agency checks. Further, Ms. Brodeur did not find it credible that the agency, in its recent submission to the Governing Committee Review Panel, defended itself by placing the blame for non-compliance either on late payments made by its premium finance company or on policy limit changes made by the Safety underwriters. She asserted that Safety's termination of the agency's Exclusive Representative Producer assignments was not unfair, unreasonable or improper and therefore, the Panel should uphold the ruling of the Market Review Committee.

Mr. De Oliveira responded that as he is planning on getting out of the insurance business and is anticipating the imminent sale of his agency, the intent of his appeal and his continuance request was to maintain his honor and respect within his community, not to buy himself additional time to remain in business or for financial gain.

The Panel discussed the comments made by the parties and subsequently considered each of the actions from which Patriot PCL Insurance requested review/relief, as specified in Safety's termination letter dated May 3, 2017. The Panel voted on these items individually as follows:

- On a unanimous vote, the Panel approved a motion that Safety has established that by failing to collect, process and remit payment due Safety in accordance with the provisions of the CAR Rules of Operation, Patriot has violated CAR Rule 14.B.1.b., as well as the Commercial and Taxi/Limousine Agreements between Safety and Patriot. Additionally, the Panel unanimously approved a motion agreeing that Safety has established that this violation provides a valid basis for termination of the agency.
- On a unanimous vote, the Panel approved a motion that Safety has established that by failing to submit to Safety for all applicants, a new business application for insurance completed in its entirety within two business days, Patriot has violated CAR Rule 14.B.1.d., as well as the Commercial and Taxi/Limo Agreements between Safety and Patriot. Additionally, the Panel unanimously approved a motion agreeing that Safety has established that this violation provides a valid basis for termination of the agency.
- On a unanimous vote, the Panel approved a motion that Safety has established that by failing to report all coverage bound and all registrations certified to Safety within two business days after binding coverage or certifying a registration, Patriot has violated CAR Rule 14.B.1.f., as well as the Commercial and Taxi/Limo Agreements between Safety and Patriot. Additionally, the Panel unanimously approved a motion agreeing that Safety has established that this violation provides a valid basis for termination of the agency.
- On a unanimous vote, the Panel approved a motion that Safety has established that by failing to comply with written procedures supplied by Safety for processing claims, remitting premiums and requesting coverage, Patriot has violated CAR Rule 14.B.1.h., as well as the Commercial and Taxi/Limo Agreements between Safety and Patriot. Additionally, the Panel unanimously approved a motion agreeing that Safety has established that this violation provides a valid basis for termination of the agency.
- On a unanimous vote, the Panel approved a motion that Safety has established that by failing to forward all premium payments to Safety within two business days of receipt, Patriot has violated CAR Rule 14.B.1.j., as well as the contracts between Safety and Patriot. Additionally, the Panel unanimously approved a motion agreeing that Safety has established that this violation provides a valid basis for termination of the agency.
- On a unanimous vote, the Panel approved a motion that Safety has established that by failing to conduct all monetary transactions with Safety as required by the CAR Rules of Operation and the Commercial and Taxi/Limo Agreements between Safety and Patriot, Patriot has violated CAR Rule 14.B.1.p., as well as the Commercial and Taxi/Limo Agreements between Safety and Patriot. Additionally, the Panel unanimously approved a motion agreeing that Safety has established that this violation provides a valid basis for termination of the agency.
- On a vote with two in favor and one abstention by Mr. Thomas Harris, the Panel approved a motion that Safety has established that by failing to comply with all the conditions set forth in the Commercial and Taxi/Limo Agreements between the agency and Safety, Patriot has violated CAR Rule 14.B.1.x., as well as the contracts between Safety and Patriot. Additionally, the Panel unanimously approved a motion agreeing that Safety has established that this violation provides a valid basis for termination of the agency.

- On a unanimous vote, the Panel approved a motion that Safety has established that by failing to comply with all the provisions of the Rules of Operation and Manual of Administrative Procedures, Patriot has violated CAR Rule 14.B.1.y. as well as the Commercial and Taxi/Limo Agreements between Safety and Patriot. This includes Safety's findings that Patriot charged prohibited additional fees to insureds in violation of CAR Rule 14.D.1.b. Additionally, the Panel unanimously approved a motion agreeing that Safety has established that this violation provides a valid basis for termination of the agency.

Finally, the Panel unanimously approved a motion agreeing that all of these violations, individually and as a group, constitute a valid basis for affirming Safety's termination of Patriot PCL Insurance's commercial automobile and taxi and limousine Exclusive Representative Producer appointments based upon the grounds stated in the Notice of Termination.

Mr. John Metcalfe advised the agency that the decision of the Governing Committee Review Panel carries the weight of the full Governing Committee and may be appealed to the Division of Insurance pursuant to Rule 20 – Review and Appeal of CAR's Rules of Operation within 30 days of being officially notified of the Panel's decision.

MARIAN ADGATE
Corporate Documentation Specialist

Boston, Massachusetts
September 18, 2017

ATTACHMENT LISTING

Docket #GCRP17.02, Exhibit #2

Attendance Listing

Docket #GCRP17.05, Exhibit #4

Patriot PCL Representation Email From Attorney
Lattarulo

Metcalfe, John

From: Andrew Lattarulo <agl@georgescotelaw.com>
Sent: Monday, August 28, 2017 11:02 AM
To: Metcalfe, John
Subject: RE: Patriot Pcl

John,

This email serves as written notice that my firm no longer represents Patriot Pcl. From my last communications with Ricardo, he still intends on attending the meeting, pro se. Thank you.

Best,

Andrew G. Lattarulo, esq.
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(fax) 617-884-1002

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