



NATALIE A. HUBLEY  
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

101 Arch Street, Suite 400 Boston, Massachusetts 02110

[www.commauto.com](http://www.commauto.com)

617-338-4000

**ADDITIONAL INFORMATION**

**TO MEMBERS OF THE GOVERNING COMMITTEE**

**FOR THE MEETING OF:**

**Wednesday, September 20, 2017 at 10:30 a.m.**

**GC**

**17.09 Governing Committee Review Panel**

An updated version of the Records of the Governing Committee Review Panel meeting of August 31, 2017 is attached. The Records have been updated to accurately reflect an abstention for one of the motions voted on by the Panel. (Docket #GC17.09, Exhibit #3)

**GC**

**17.16 Budget Committee**

The Records of the Budget Committee meeting of September 14, 2017 are attached. (Docket #GC17.16, Exhibit #1)

The Records of the Budget Committee meeting of September 14, 2017 have been distributed and are on file.

NATALIE A. HUBLEY  
President

Attachments

Boston, Massachusetts  
September 18, 2017



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### RECORDS OF MEETING

#### GOVERNING COMMITTEE REVIEW PANEL – AUGUST 31, 2017

##### Members Present

Mr. James Hyatt – Chair  
Mr. Thomas Harris<sup>(1)</sup>  
Mr. John Olivieri, Jr.

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

Substituted for:

<sup>(1)</sup>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

## Metcalfe, John

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**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.**  
Georges Cote LLP  
235 Marginal St, suite#3  
Chelsea, MA 02150  
(tel) 617-884-1000  
(fax) 617-884-1002

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### RECORDS OF MEETING

#### BUDGET COMMITTEE – SEPTEMBER 14, 2017

##### Members Present

Mr. James Hyatt – Chair  
Ms. Sarah Clemens<sup>(1)</sup>  
Mr. Thomas DePaulo  
Ms. Carroll Foley  
Mr. John Olivieri, Jr.

Arbella Insurance Group  
MAPFRE U.S.A. Corporation  
Meridian Insurance Agency, LLC  
The Hanover Insurance Company  
J.K. Olivieri Insurance Agency, Inc.

Substituted for:

<sup>(1)</sup>John Kelly

Not in Attendance:

N/A

#### 16.01 Records of Previous Meeting

The Committee unanimously voted to approve the Records of the Budget Committee meeting of September 1, 2016. The Records have been distributed and are on file.

#### 17.04 Fiscal Year 2018 Budget and Business Plan

President Natalie Hubley presented the Fiscal Year 2018 (FY18) Budget and Business Plan, noting that management is proposing a net operating budget of \$9,270,100, reflecting an increase of \$441,000 over the FY17 approved budget. The increase is due to two factors: \$208,000 relating to the absence of the four-month rent abatement realized in FY17, and \$272,000 relating to CAR's disaster recovery plan implementation. To alleviate the impact of these increases, staff proposed applying the anticipated FY17 surplus toward FY18 expenses. Management therefore requested a net FY18 assessment of \$8,979,400, representing a \$150,300, or 1.7% increase over FY17.

Ms. Hubley advised the Committee that management anticipates closing out Fiscal Year 2017 (FY17) approximately \$290,700 under budget resulting primarily from staff's continued focus on controlled health insurance costs and prudent hiring decisions. Savings were also realized from lower than anticipated building escalation expenses relating to the 225 Franklin Street lease termination and reduced costs associated with computer hardware and software maintenance.

While the Committee recognized the increase in the rent account, it was noted that rent expenses reflect a savings of more than \$300,000 annually due to the recent relocation to 101 Arch Street.

The Committee discussed on-going costs attributed to the planned standby disaster recovery site services estimated at \$111,000 annually. Although implementation of the disaster recovery plan will commence early in FY18, activation of the standby recovery sites is not expected until the third quarter. Accordingly, the Committee agreed that whereas recovery site services will only be required for a portion of FY18, a reduction of the proposed cost estimate to \$55,000 is appropriate.

The Committee also discussed funding for legal fees which includes a \$60,000 contingency for potential billing outside the monthly retainer agreement. Given that the full \$180,000 budgeted in FY17 was not incurred and staff anticipates that most of Counsel's efforts will fall within the \$10,000 monthly retainer, the Committee agreed to a reduction in the proposed amount by \$20,000 to \$160,000.

The Committee agreed that the FY17 surplus should be used to fund the increased FY18 budget needs and directed staff to distribute a summary of FY17 actual expenditures to the Budget Committee after the close of the fiscal year. Following discussion, the Committee unanimously voted to recommend to the Governing Committee approval of the FY18 administrative expense budget of \$9,195,100, with the final FY17 surplus applied to FY18 expenses.

REGINA NAGLE  
Administrative Services Assistant

Boston, Massachusetts  
September 18, 2017