



NATALIE A. HUBLEY
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

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

RECORDS OF MEETING

MARKET REVIEW COMMITTEE – SEPTEMBER 12, 2017

Members Present

Mr. Charles Boynton, III – Chair	Boynton Insurance Agency
Ms. Elizabeth Brodeur	Safety Insurance Company
Mr. Bruce Dodge ⁽¹⁾	MAPFRE U.S.A. Corporation
Mr. Harold Gerbis	Quincy Mutual Group
Mr. Sumner Gilman	Economy Insurance Agency, Inc.
Mr. Richard Jones	Leslie S. Ray Insurance Agency, Inc.
Mr. David McCormick	McCormick and Sons Insurance Agency, Inc.
Ms. Erin Schaff ⁽²⁾	Arbella Insurance Group
Ms. Marie-Armel Theodat	All Towns Insurance Agency, Inc.
Mr. Kenneth Willis ⁽³⁾	Plymouth Rock Assurance Corporation

Substituted for:

⁽¹⁾Mr. Andrew Drayer

⁽²⁾Mr. James Hyatt

⁽³⁾Ms. Paula Gold

Not in Attendance:

Mr. Douglas Long, Liberty Mutual Group

17.01 Records of Previous Meeting

The Committee unanimously voted to approve the Records of the Market Review Committee meeting of June 21, 2017. The Records have been distributed and are on file.

17.06 Point Insurance Agency, Inc./Arbella Protection Insurance Company

Point Insurance Agency is requesting relief of the termination of the agency’s commercial automobile Exclusive Representative Producer appointment by the Arbella Protection Insurance Company for violations of CAR Rule 14.B.1.c., e., k., l., and n., and of the agency’s Limited Servicing Carrier Agreement with Arbella. Ms. Erin Schaff of Arbella Protection Insurance Company recused herself from Committee discussion on this agenda item.

Attorney Joshua Lewin, representing the Point Insurance Agency, requested approval to present a procedural motion to continue the Market Review Committee hearing to a future date. Upon review of the document, the Committee members did not object to its presentation.

Mr. Lewin noted that based upon confidential information learned from Point Insurance Agency and another client of his firm, under the Professional Rules of Conduct his firm determined that due to a conflict of interest it is necessary for him to withdraw his representation of Point in this matter. His client, Point, was advised as such on September 4, 2017. As a result of his firm's ethical obligations to Point, he emphasized that he, not Point, is requesting that the Committee consider continuance of the hearing in order to allow Point to retain new counsel and to provide sufficient time for that counsel to prepare.

Attorney Frances Robinson, representing Arbella, expressed her opposition to Mr. Lewin's request for a continuance, noting that Arbella is well prepared to go forward with this matter. She believes the request to be without substantial basis as there is insufficient information for the Committee to determine whether a true conflict of interest exists. She stated that legal precedent suggests that Mr. Lewin could present the Committee with details relative to the conflict *ex parte*, in camera – out of the hearing of herself and her client.

In response to a question from the Committee, Attorney Steven Torres, counsel for CAR, offered that he does not know whether a basis exists for the Committee to perform an *ex parte* review of the conflict. However, he advised that the meeting is a proceeding that is subject to the Open Meeting Law, and that the potential conflict of interest that has been raised is not one of the exceptions that authorizes the Committee to convene in Executive Session. Additionally, no authority has been granted to allow or expect the Market Review Committee to undertake an in camera review.

Mr. Lewin responded that he legally is not able to disclose to the Committee private communications between his clients. His firm has assessed this issue and he reemphasized that due to the existence of ethical obligations, he is not able to continue representing Point in this matter.

Mr. Torres noted that the Committee must decide whether or not to grant the continuance, however, he provided the Committee with guidance to consider while discussing the matter. He advised that this situation is somewhat unique in that when conflicts do arise, they typically arise at the beginning of an engagement. In this situation, there have been several proceedings this year involving Point and Arbella, in a number of different forums. Mr. Torres further suggested that if the Committee were to deny the request for a continuance, the Committee could question whether Mr. Lewin would feel able to present the arguments he had previously submitted in written form. Additionally, Mr. Torres noted that if the Committee were to move forward today and the termination were upheld, Point would have the opportunity to obtain successor counsel and seek a further *de novo* review of this matter by the Governing Committee Review Panel. Finally, the Committee should consider how the Division of Insurance may view the matter should Point's termination ultimately be upheld and later appealed to the Division.

After discussion, the Committee unanimously voted, with one recusal, to grant the continuance requested by Mr. Lewin. The Chair encouraged that the review be rescheduled as soon as practical.

MARIAN ADGATE
Corporate Documentation Specialist

Boston, Massachusetts
September 15, 2017

ATTACHMENT LISTING

Docket #MR17.02, Exhibit #3

Attendance Listing

Docket #MR17.06, Exhibit #5

Motion to Request Continuance of Hearing

COMMONWEALTH AUTO REINSURERS

_____))
POINT INSURANCE INC.))
Petitioner))
))
v.))
))
ARBELLA PROTECTION INSURANCE))
Respondent))
_____)

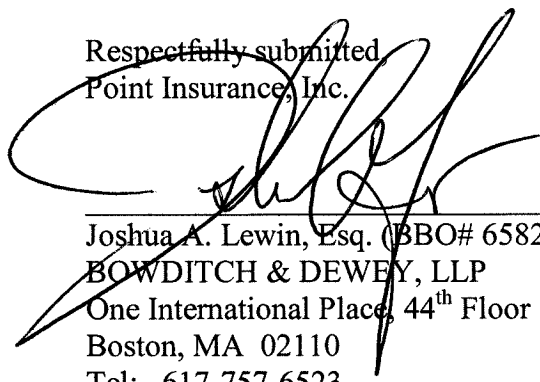
MOTION TO REQUEST CONTINUANCE OF MARKET REVIEW
COMMITTEE HEARING

Counsel for Point Insurance, Inc. (“Point”), Bowditch and Dewey LLP, respectfully requests that the Market Review Committee continue the hearing in this matter scheduled for September 12, 2017. Counsel states that it recently discovered a conflict of interest relating to this matter which will prohibit it from continuing to represent Point on an ongoing basis in this case. Counsel raised the issue for the first time with Point on Tuesday, September 4, 2017, after discussing the conflict it internally at the firm on September 1, 2017. Point is seeking new counsel so that current counsel may withdraw and a continuance is necessary to enable Point to find new counsel and allow new counsel time to review the matter and prepare for the hearing.

Point should not be prejudiced as a result of the ethical obligations of its counsel and Point should be given a reasonable continuance to secure counsel to represent it in this matter.

Accordingly, Point, by its counsel, requests that the committee continue this hearing for a further date.

Respectfully submitted
Point Insurance, Inc.



Joshua A. Lewin, Esq. (BBO# 658299)
BOWDITCH & DEWEY, LLP
One International Place, 44th Floor
Boston, MA 02110
Tel: 617-757-6523
Fax: 508-929-3184
email: jlewin@bowditch.com

Date: September 11, 2017