



NATALIE A. HUBLEY  
PRESIDENT

**COMMONWEALTH AUTOMOBILE REINSURERS**

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**RECORDS OF MEETING**

**MARKET REVIEW COMMITTEE – DECEMBER 19, 2018**

Members Present

Mr. Charles Boynton, III – Chair	Boynton Insurance Agency
Ms. Elizabeth Brodeur	Safety Insurance Company
Ms. Sheila Doherty	Doherty Insurance Agency, Inc.
Mr. Andrew Drayer	MAPFRE U.S.A. Corporation
Ms. Roberta Fitzpatrick	Arbella Insurance Group
Mr. Harold Gerbis	Quincy Mutual Group
Mr. Sumner Gilman	Economy Insurance Agency, Inc.
Mr. David McCormick	McCormick and Sons Insurance Agency, Inc.
Ms. Marie-Armel Theodat	R. Theodat Insurance Agency, Inc.
Mr. Kenneth Willis	Plymouth Rock Assurance Corporation

Substituted for:  
N/A

Not in Attendance:  
N/A

**17.01 Records of Previous Meeting**

The Committee unanimously voted to approve the Records of the Market Review Committee meeting of November 28, 2017. The Records have been distributed and are on file.

**18.05 Shannon Insurance Agency, LLC/Commerce Insurance Company**

The Shannon Insurance Agency is requesting relief of the termination of the agency’s commercial automobile Exclusive Representative Producer appointment by the Commerce Insurance Company for violations of CAR Rule 14.B.1.d., e., g., j., x., and y. Commerce’s termination of the agency was by letter dated September 11, 2018, but the agency has taken the position that it never received the termination letter and was not aware of the termination until November 2018. Mr. Andrew Drayer of MAPFRE U.S.A. Corporation recused himself from Committee discussion on this agenda item.

Mr. Ben Hincks, CAR counsel, provided the Committee with procedural information to assist in its consideration of the appeal. He advised that that the Committee has been convened to initially consider whether or not the termination should be upheld on the procedural ground that CAR received the Shannon agency’s Request for Review on November 6, 2018 rather than within 30 calendar days of the date on which Commerce alleges the termination letter was delivered to the agency. He further advised that irrespective of how the Committee rules on that procedural matter, the Committee should then determine whether Commerce’s termination should be upheld based on any or all of the specific grounds stated in the notice

of termination. The Committee should deliberate on each alleged violation that was the basis of the termination and determine if each one individually was a valid basis for termination and whether, pursuant to Rule 20 of CAR's Rules of Operation, whether Commerce's termination on each ground is an unfair, unreasonable or improper practice.

Mr. Paul Shannon of the Shannon Insurance Agency, LLC, presented the agency's appeal. He stated that he was assigned to Commerce in 2012 and in December 2017, a new Commerce underwriter was assigned to his agency. In the past, he never encountered any issues with the company, but beginning in December of 2017, many of the agency's policies that included large risks such as buses, sand and gravel haulers and van pools were being non-renewed by Commerce. Additionally, the company was no longer accepting any new business policies written by the agency. He stated that risks that had been on his books for many years and renewed by Commerce each year without issue, were now being scrutinized and additional reports such as quarterly fuel tax records and trip logs were being requested at renewal. If this documentation was not received, Commerce would non-renew the policies. However, Mr. Shannon pointed out that Commerce was then rewriting the same policies with another Commerce agent, without requesting the documentation previously requested from the Shannon agency. In his opinion, he felt that this inconsistency in underwriting requirements demonstrates a clear bias against the agency. He further noted that although he did not have a large amount of business with Commerce, he averaged approximately \$35-40,000 in commissions yearly over the past six years, a substantial loss of income for his agency.

In response to questions from the Committee members, Mr. Shannon indicated that he was in receipt of the June 5, 2018 letter from Commerce which identified a number of concerns that the carrier requested the agency to address. He noted that prior to receiving this letter, due to the numerous issues that he was having with Commerce, he had been in communication with CAR staff to request reassignment to another carrier. He also indicated that throughout the years, he had never been visited by a Commerce marketing representative and while he had many conversations with his new underwriter, his requests to speak with an underwriting manager went unheeded. He noted that at the present time, the agency's current book of business with Commerce is approximately 8-10 policies, with most of his larger accounts already non-renewed.

Ms. Sarah Clemens, representing MAPFRE/Commerce, initially addressed the 30-day appeal requirement, noting that Commerce had complied with the method of termination specified in Rule 13.B.6.b. She stated that the company had mailed the termination letter in compliance with CAR Rules, included proof of mailing to the agent's principal place of business and that a confirmed receipt to the agency's front door in Attleboro was received.

Ms. Clemens acknowledged that in December 2017, a new individual took over as the agency's underwriter. She stated that the actions of Commerce's underwriter, however, were consistent with the obligations of the Limited Servicing Carrier Agreement and the requests for additional reports were to validate eligibility, proper classification and rating of the risk. She further noted that over the past year, CAR's committees have approved standards to create consistency among Servicing Carriers' handling of risks in the commercial marketplace, as well as Rule modifications to further define principal place of business and confirm Massachusetts operation. Therefore increased scrutiny on risks is to be expected for all Servicing Carriers.

On June 5, 2018, Commerce issued a warning letter to Mr. Shannon identifying the areas of the agency's non-compliance and inconsistencies with CAR Rules. Mr. Shannon was given sufficient opportunity to communicate with Commerce's underwriting team relative to the issues contained in the letter, however, no communication was ever made and identified concerns were never addressed. Additionally, an offer for Mr. Shannon to reach out to Mr. John Kelly at MAPFRE was also not accepted.

Ms. Clemens then addressed the information contained in Commerce's termination letter, and pointed out additional information and some inaccuracies not disclosed by Mr. Shannon. She identified several of the Rule 14 violations incurred by the agency, including; failure to provide a signed premium finance application/agreement in accordance with the two business day requirement, failure to verify information provided by the applicant, failure to verify policies cancelled by non-pay and collect unearned premium due to other carriers, and forwarding payments to the Servicing Carrier within two business days. Ms. Clemens further noted that the Shannon agency currently has a returned commission balance of over \$24,000 owed to Commerce relative to policies that have been cancelled.

Significant Committee discussion ensued relative to several specific policies that were in violation of the Rules and members then proceeded to a vote. Mr. Hincks reiterated that the Committee should consider first the procedural issue relative to the late receipt of the Request for Review and then consider each of the separate bases for termination on its own merit and whether each is grounds for termination, irrespective of the Committee's decision on the procedural issue.

Accordingly on a unanimous motion, the Committee recommended that it take up the appeal on the merits of the termination itself, accept the late appeal and consider the termination on its merits despite the lateness of appeal.

The Committee then proceeded to vote on each of the Rule sections cited in Commerce's termination letter as follows:

**Rule 14.B.1.d.**

In a vote with 7 in favor, 1 opposed and 1 recused, the Committee agreed that Commerce has established that Shannon Insurance has violated CAR Rule 14.B.1.d. by failing to submit for all applicants a new business application for insurance with appropriate certification form(s), completed in their entirety, and a signed premium finance agreement/application, if applicable, within two business days.

In a vote with 7 in favor, 1 opposed and 1 recused, the Committee agreed that the violation of Rule 14.B.1.d. provides a valid basis for termination.

**Rule 14.B.1.e.**

In a vote with 8 in favor and 1 recused, the Committee agreed that Commerce has established that Shannon Insurance has violated CAR Rule 14.B.1.e. by failing to provide a reasonable and good faith effort to verify the information provided by the applicants, including licensing and rating data.

In vote with 8 in favor and 1 recused, the Committee agreed that the violation of Rule 14.B.1.e. provides a valid basis for termination.

**Rule 14.B.1.g.**

In a vote with 8 in favor and 1 recused, the Committee agreed that Commerce has established that Shannon Insurance has violate CAR Rule 14.B.1.g. by failing to verify that the applicant has not been in default in the payment of any Motor Vehicle Insurance premium in the past 24 months.

In a vote with 8 in favor and 1 recused, the Committee agreed that the violation of Rule 14.B.1.g. provides a valid basis for termination.

**Rule 14.B.1.j.**

In a vote with 8 in favor and 1 recused, the Committee agreed that Commerce has established that Shannon Insurance has violated CAR Rule 14.B.1.j. by failing to forward all premium payments to a Servicing Carrier within two business days of receipt. However, a Servicing Carrier shall extend the payment period for an additional seven days upon sufficient notice that all or part of a premium is being

financed by a licensed premium finance company where the premium finance company has given its written assurance to pay the full premium financed directly to the Servicing Carrier. This provision shall not obligate a Servicing Carrier to provide such additional time if notwithstanding any written assurances the premium finance company has previously failed to perform its commitment.

In a vote with 8 in favor and 1 recused, the Committee agreed that the violation of Rule 14.B.1.j. provides a valid basis for termination.

**Rule 14.B.1.x.**

In a vote with 7 in favor, 1 opposed and 1 recused, the Committee agreed that Commerce has established that Shannon Insurance has violated CAR Rule 14.B.1.x. by failing to comply with all of the conditions set forth in its Limited Servicing Carrier Agreement with Commerce, namely paragraphs 1.B. and 1.H of that Agreement.

In a vote with 7 in favor, 1 opposed and 1 recused, the Committee agreed that the violation of Rule 14.B.1.x. provides a valid basis for termination.

**Rule 14.B.1.y.**

In a vote with 6 in favor, 2 opposed and 1 recused, the Committee agreed that Commerce has established that Shannon Insurance has violated CAR Rule 14.B.1.y. by failing to comply with all of the provisions of the Rules of Operation and the Manual of Administrative Procedures.

In a vote with 6 in favor, 2 opposed and 1 recused, the Committee agreed that the violation of Rule 14.B.1.y. provides a valid basis for termination.

Mr. John Metcalfe advised the agency that it has 30 days to petition CAR for a subsequent review of the Committee's decision by the Governing Committee pursuant to Rule 20 – Review and Appeal and during that time, the termination is stayed until the appeal process is completed.

MARIAN ADGATE  
Corporate Documentation Specialist

Boston, Massachusetts  
January 28, 2019

**ATTACHMENT LISTING**

Docket #MR18.02, Exhibit #1

Attendance Listing



