



NATALIE A. HUBLEY  
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

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## RECORDS OF MEETING

### COMMERCIAL PROGRAM OVERSIGHT COMMITTEE – OCTOBER 27, 2022

#### Members Present

Mr. John Olivieri, Jr – Chair  
Mr. Brian Hayes  
Mr. David McCormick  
Ms. Sharon Murphy

J.K. Olivieri Insurance Agency, Inc.  
Quincy Mutual Group  
McCormick & Sons Insurance Agency, Inc.  
Acadia Insurance Company

Substituted for:  
N/A

Not in Attendance:  
Mr. Donald Bredberg, Norfolk and Dedham Group

#### 22.01 Records of Previous Meeting

The Committee unanimously voted to approve the Records of the Commercial Program Oversight Committee meeting of June 8, 2022. The Records have been distributed and are on file.

#### 22.05 Request for Reimbursement of Extraordinary Expense – Safety Insurance Company

Ms. Wendy Browne provided an overview of Safety Insurance Company's request for reimbursement of extraordinary expense of uncollected earned premium that Safety contends resulted directly from its actions pursuant to guidance from the Massachusetts Division of Insurance related to the COVID-19 Public Health Crisis in 2020. Ms. Browne noted that attached to the Notice of Meeting was documentation submitted by Safety in response to the Committee's request for additional information at its prior meeting.

Ms. Mary McConnell, representing Safety Insurance Company, provided the Committee with a synopsis of Safety's request for reimbursement of extraordinary expenses in the amount of \$379,684.17 submitted to CAR on February 18, 2022. The policies in question involve one policy effective May 27, 2019-May 27, 2020, with an uncollected balance of \$258,132, and a second policy effective May 27, 2020-August 3, 2020, with an uncollected balance of \$121,552.

Ms. McConnell explained that Safety chose to pursue reimbursement for the earned but uncollected premium on the two ceded commercial automobile insurance policies issued to one specific insured because it accounted for the majority of Safety's earned but uncollected premium in 2020. She further noted that neither policy would have incurred such a significant earned but uncollected premium balance absent the

accommodations put in place by Safety in response to the Division of Insurance directive to assist policyholders during the pandemic. She commented that Safety's earned but uncollected premium for that time period net of these two policies was 1.159% of premium, still well in excess of normal experience.

Ms. McConnell referred to Safety's submission, attached to the meeting materials, in which Safety provided additional information requested by the Committee at its March 29, 2022, meeting. Specifically, Ms. McConnell described the disposition of the policy just prior to the State of Emergency declaration, an accounting history of the May 2019 policy, and a description of the company's normal cancellation procedures in the absence of the COVID-19 pandemic. Further, Ms. McConnell advised that Safety had not received payment of the earned but uncollected premium from the risk to date on either policy.

Ms. McConnell described the activity on the policy effective May 27, 2019, noting frequent endorsement activity due to a large increase in the size of the insured's operations resulting in premium greater than twice that of prior policy terms. The complex risk often required discussion with the producer to verify vehicles and manual rating to ensure correct coverage effective and end dates. Ms. McConnell noted non-payment cancellation notices had been issued during the policy term, after which payments and endorsements were made to enable reinstatement. Ms. McConnell advised that immediately prior to Safety's nonpayment cancellation moratorium on March 23, 2020, the risk owed \$241,712.53 on the policy. During the moratorium, Safety received one payment of \$100,000, falling short of more than \$374,000 due. She advised that the policy expired on May 27, 2020 and was written through a new producer effective May 27, 2020.

Finally, Ms. McConnell advised that absent the accommodations made at the request of the Division of Insurance to address the public health crisis, Safety's procedures would result in approximately 7 weeks between initial bill and a non-payment cancellation.

The Committee observed the history of nonpayment for this risk, which often resulted in policy changes to minimize payment need, and eventual return to nonpayment status. Mr. Brian Hayes questioned the impact of the pandemic on the disposition of the 2019 policy. He noted the outstanding balance immediately prior to Safety's nonpayment cancellation moratorium and the 7 weeks that would normally transpire before cancellation would have taken the policy close to expiration. Mr. Hayes commented on the risk's move to another producer and opined that it was highly likely that there would have been a shortfall with this account regardless of the pandemic.

Ms. Sharon Murphy agreed and noted that on February 5, 2020, a cancellation notice for nonpayment was issued to be effective on February 27, 2020; however, on February 25, 2020, Safety made an accommodation on the cancellation accepting \$216,383 and reinstating the policy with outstanding earned but uncollected premium remaining. She observed that the circumstances were made more difficult because of the moratorium but that the shortfall was the result of prior accommodations made and otherwise would have cancelled prior to Safety's moratorium.

Ms. McConnell explained that the accommodations made by Safety were not the result of financial conditions indicating inability to pay, but rather because of significant endorsement activity on the policy, and a need to validate the accuracy of owed premium given the number of vehicles involved. She noted the complexity of the risk and that the company had no reason to anticipate that payments would not be made.

After discussion, Mr. Hayes suggested that the pandemic-related accommodations made by Safety were perhaps in rewriting the 2020 policy despite the unpaid premium. The Committee inquired further about activity on the second policy.

Ms. McConnell noted that collection of unpaid premium is the responsibility of the producer. She explained that Safety's normal procedures would result in cancellation due to prior unpaid premium approximately 3 weeks subsequent to policy issuance. She further explained that coverage was bound by the new producer effective May 27, 2020, but that the policy application and detailed information was not received by Safety until July 22, 2020. Ms. McConnell indicated that Safety then issued the policy, processed billing, and then issued a nonpayment cancellation notice to be effective August 17, 2020. The company was notified by the producer, subsequent to the cancellation notice, of a change of carrier and the policy was cancelled effective August 3, 2020. She also noted that it was her understanding that the risk had secured coverage in the voluntary market at that time.

Additional discussion ensued as to whether further confirmation from Safety's billing department, relative to the timeline of unpaid premium cancellation procedures, would benefit the Committee's discussion. The Committee concluded that the description of activity with respect to the 2020 policy did not indicate accommodations relating to the public health crisis. Accordingly, Mr. Hayes made a motion, which was seconded by Mr. David McCormick, to deny Safety's request for reimbursement of extraordinary expenses related to the COVID 19 directives from the Division of Insurance. On a roll call vote, the Committee voted unanimously in favor of the motion.

RICHARD DALTON  
Residual Market Liaison

Boston, Massachusetts  
November 4, 2022

**ATTACHMENT LISTING**

Docket #CPOC22.02, Exhibit #3

Attendance Listing

**COMMERCIAL PROGRAM OVERSIGHT COMMITTEE MEETING  
 MEETING ATTENDEES  
 OCTOBER 27, 2022**

Individual's Name

Company / Agency

PLEASE PRINT

M. John Olivieri, Jr.	J.K. Olivieri Insurance Agency, Inc.
Brian Hayes	Quincy Mutual Group
David McCormick	McCormick & Sons Insurance Agency, Inc.
Sharon Murphy	Acadia Insurance Company
John Elstermeyer	Arbella Insurance Group
John Magadieu	Arbella Insurance Group
Peter Barton	Safety Insurance Company
Mary McConnell	Safety Insurance Company
Mary Ellen Thompson	Division of Insurance
Benjamin Hincks	TSH & D – CAR Counsel
Mark Alves	CAR Staff
Wendy Browne	CAR Staff
Shannon Chiu	CAR Staff
Richard Dalton	CAR Staff
Timothy Galligan	CAR Staff
Steven Gautieri	CAR Staff
Matthew Hirsh	CAR Staff
Natalie Hubley	CAR Staff
Cheryl Kopas	CAR Staff
Tiffany Manning	CAR Staff
Katy Proctor	CAR Staff
James Robery	CAR Staff
Lynne Rosenberg	CAR Staff
Alison Ruggiero	CAR Staff
Robin Tigges	CAR Staff