

# **OHIO DEPARTMENT OF INSURANCE**

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF  
SAFE AUTO INSURANCE COMPANY**

**NAIC #25405**

**As Of  
March 31, 2001**





Bob Taft, Governor  
Ann Womer Benjamin, Director

2100 Stella Court, Columbus, OH 43215-1067  
(614) 644-2658 www.ohioinsurance.gov

Honorable Ann Womer Benjamin  
Director  
Ohio Department of Insurance  
2100 Stella Court  
Columbus, Ohio 43215-1067

Director:

Pursuant to your instructions and in accordance with the powers vested under Title 39 of the Ohio Revised Code, a market conduct examination was conducted on the Ohio business of:

Safe Auto Insurance Company  
NAIC Company Code 25405

The examination was conducted at the Company's main administration office located at:

3883 East Broad Street  
Columbus, Ohio 43213

A report of the examination is enclosed.

Respectfully submitted,

A handwritten signature in cursive script that reads 'David R. Beck'.

David R. Beck

Chief, Market Conduct Division

Date: *Aug 13<sup>th</sup> 2004*



Accredited by the National Association of Insurance Commissioners (NAIC)  
Consumer Hotline: 1-800-686-1526    Fraud Hotline: 1-800-686-1527    OSHIIP Hotline: 1-800-686-1578

## TABLE OF CONTENTS

|  |    |
|--|----|
| SCOPE OF EXAMINATION.....                                  | 1  |
| METHODOLOGY .....  | 1  |
| SAMPLE.....  | 2  |
| COMPANY HISTORY .....                                      | 3  |
| COMPANY OPERATIONS.....                                    | 3  |
| CERTIFICATE OF AUTHORITY.....                              | 4  |
| MARKETING AND ADVERTISING .....                            | 4  |
| PRIVATE PASSENGER AUTOMOBILE RATING AND UNDERWRITING ..... | 12 |
| AUTOMOBILE CLAIM SETTLEMENTS .....                         | 17 |
| SUMMARY.....   | 34 |
| COMPANY RESPONSE.....                                      | 35 |

## **SCOPE OF EXAMINATION**

The examination of Safe Auto Insurance Company (the Company) commenced on August 6, 2001, with the examination of the Company's non-financial business practices being conducted at the Company's home office in Columbus, Ohio. The examination was restricted to private passenger automobile insurance business from the period of April 1, 2000, through March 31, 2001, unless otherwise indicated.

This examination was generally conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners (NAIC) and the Ohio Department of Insurance (the Department). Accordingly, the examination included the following areas of the Company's operations:

- A. Company History
- B. Company Operations
- C. Certificate of Authority
- D. Marketing and Advertising
- E. Private Passenger Automobile Rating and Underwriting
- F. Automobile Claim Settlements

## **METHODOLOGY**

The examination was conducted through a review of policy and claim files. A review was also conducted of the Company's corresponding procedure manuals. This information was supplemented, as necessary, with interviews with Company managers and written inquiries to the Company requesting clarification and/or additional information.

Files with only Ohio policyholders or claimants were reviewed. A series of tests were designed and applied to the files reviewed to determine the Company's level of

compliance to Ohio insurance statutes and regulations. These tests are described and the results noted in this report.

Unless otherwise noted, the Examiners used the NAIC's standard of:

7% error ratio on claim files (93% compliance rate), and

10% error ratio on all other files (90% compliance rate)

to determine whether or not an apparent pattern or practice of non-compliance existed for any given test.

The results of each test applied to a sample are reported separately. Each test is expressed as a "Yes/No" question. A "Yes" response indicates compliance and a "No" response indicates a failure to comply.

In any instance where errors were noted, the Examiners submitted to the Company a request for information describing the apparent error. Response to these inquiries were returned to the Examiners with notes as to whether the Company:

- Concurred with the findings,
- Had additional information for the Examiners to consider, and/or
- Proposed remedial action(s) to correct the apparent deficiency.

The Examiners' recommendations, as applicable, are included in this report.

### **SAMPLE**

The Department requested, and the Company supplied, reports of producers and policy and claim data in file formats specified by the Examiners, which could be used on IBM compatible personal computers. Except as otherwise noted, all tests were conducted on a sample of files randomly selected from a given report.

These samples were selected using a standard business database application that provides a true random sample since it supplies a random starting point from which to pull the sample.

### **COMPANY HISTORY**

The Company, a wholly owned subsidiary of Safe Auto Group, Incorporated, is a privately owned Ohio Corporation. The Company was founded in 1993 and is a direct writer of personal auto insurance. The Company is headquartered in Columbus, Ohio.

Currently, the Company is writing business in Ohio, Indiana, Kentucky, Pennsylvania, Georgia and South Carolina. The Company is also licensed in Florida, but has not determined whether or not to actively enter that market.

### **COMPANY OPERATIONS**

The Company is licensed in seven states and is headquartered in Columbus, Ohio.

The Company's reported Ohio, direct premiums written and direct losses paid for calendar year 2000 are as follows:

| <u>Premiums</u> | <u>Losses</u> |
|-----------------|---------------|
| \$25,412,481    | \$12,226,984  |

As of December 31, 2000, the officers of the Company were:

|                 |           |
|-----------------|-----------|
| Jon P. Diamond. | President |
| Melinda S. Fry  | Treasurer |
| April D. Miller | Secretary |

### **CERTIFICATE OF AUTHORITY**

The Company operates under a Certificate of Authority issued in accordance with Section 3929.01 of the Ohio Revised Code. The Certificate in effect for the Company at the time of the examination was issued for the period of July 1, 2000 through June 30, 2001 and has been renewed.

### **MARKETING AND ADVERTISING**

#### **Marketing**

As a direct writer, the Company employs no outside agents, but rather advertises on television, radio and print to invite customers to call for a free quote. Because of this marketing strategy, the Company incurs substantial up-front advertising costs in any new market it enters. This cost diminishes as a percentage to revenue in time as people gain a familiarity with the Company and their product. The Company's marketing approach includes investing significant dollars to educate all drivers on the financial responsibility laws in the state in which they live. This approach has been used since the founding of the Company because the Company feels it best meets their long-term business plan.

## **Agent Licensing**

**Standard:** No person shall procure an application or quote premiums for, discuss coverages of, or solicit, negotiate, effect, procure, place, write, deliver, renew, or bind, a policy of insurance through any medium for risks residing, located, or to be performed in this state, unless the person is licensed by the Superintendent of the Ohio Department of Insurance.

**Test:** Were the persons reported by the Company as soliciting or procuring applications for insurance licensed as per Section 3905.01 (A) of the Ohio Revised Code? (Section 3905.01 (A) was effective June 30, 1998. It was repealed and replaced by Section 3905.02 on September 1, 2002)

**Methodology:** The Department requested, and the Company supplied, a report of all individuals that quoted new business in Ohio during all or part of the examination period.

The Company provided data showing that 56,093 quotes were provided to Ohio consumers. Each of the 56,093 quotes could be linked to a maximum of two customer service representatives. If a quote was given and a policy purchased at the same time, both customer service numbers are the same. If the customer calls back, he or she might not speak to the same customer service representative. In this case, there could be two customer service representative numbers associated with a single quote/policy.

It was determined there was a total of 335 unique customer service numbers.

In the situation where a single quote/policy had two different customer representatives associated with it, a record was added to separate the customer service numbers. This action added an additional 19,040 quotes to our population of 56,093 quotes. Therefore, there was a grand total of 75,133 quotes.

The Examiners:

1. Compared the Company’s report of all individuals that quoted new business in Ohio during all or part of the examination period with the agent licensing record database maintained by the Department.
2. Considered any person who was on the Company’s report of all individuals that quoted new business in Ohio during all or part of the examination period but was not listed in the Department agent licensing record database to be an exception.
3. Compared the date a quote was given with the date the individual was licensed with the Department.
4. Considered any person who provided a quote either prior to their Department active date or after their Department expiration date to be an exception.

Were quotes issued by Sales Representatives who had a valid Ohio license at the time of the quote?

**Findings:**

|                    | Total  | Yes    | No     | Standard | % Compliance |
|--------------------|--------|--------|--------|----------|--------------|
| # of Quotes issued | 75,133 | 59,851 | 15,282 | 100%     | 80%          |

The standard of compliance is 100%. The Company’s performance was below the minimum standards.

|                                     | Total | Yes | No  | Standard | % Compliance |
|-------------------------------------|-------|-----|-----|----------|--------------|
| # of Sales Representatives involved | 335   | 120 | 215 | 100%     | 36%          |

Each sales representative is included only once. If the representative was found to have provided a quote while being unlicensed at any time during the examination period, that sales representative was considered to be out of compliance.

The standard of compliance is 100%. The Company's performance was below the minimum standards.

**Examiners' Comments:**

The Department agent licensing record database indicated 113 individuals were licensed and appointed with the Company during the examination period of April 1, 2000 through March 31, 2001.

There were a number of quotes for which the Company could not verify which representative had actually provided the quote to the Ohio consumer. Each quote listed a specific customer service representative as providing the quote. However, the Company could not always confirm which individual customer service representative actually provided the quote. Those instances are included in the 215 exceptions listed above.

The Company appeared to use a July 5, 1994 letter from the Department as a guideline to ensure compliance with the licensing regulations of the Department. The Company failed to implement the agent licensing laws that were amended by Section 3905.01 (A) of the Ohio Revised Code effective on June 30, 1998. (Replaced by Section 3905.02 on September 1, 2002.)

**Recommendations:**

1. The Company should develop and implement procedures that assure compliance to Section 3905.02 of the Ohio Revised Code.
2. The Company should develop and implement audit procedures that monitor compliance with Section 3905.02 of the Ohio Revised Code.
3. The Company should provide the Department with copies of its revised procedures and any internal correspondence that communicates any change in procedure.
4. The Company should develop and implement procedures that enable it to remain current with and aware of any changes in the rules and regulations of the Department.

5. The Company should develop and implement procedures that enable it to correctly identify the person quoting the business and the agent of record.

### **Agent Appointments**

**Standard:** No agent shall represent to the public that the agent has authority to represent a particular insurer until the insurer has acknowledged that authority by appointment of the agent.

**Test:** Were the persons reported by the Company as soliciting or procuring applications for insurance appointed as per Section 3905.011 (C) (2) of the Ohio Revised Code? (Section 3905.011 (C) (2) was effective October 1, 1998. It was repealed and replaced by Section 3905.20 on September 1, 2002)

**Methodology:** The Department requested, and the Company supplied, a report of all individuals that quoted new business in Ohio during all or part of the examination period.

The Company provided data showing that 56,093 quotes were provided to Ohio consumers. Each of the 56,093 quotes could be linked to a maximum of two customer service representatives. If a quote was given and a policy purchased at the same time, both customer service numbers are the same. If the customer calls back, he or she may not speak to the same customer service representative. In this case, there could be two customer service representative numbers associated with a single quote/policy.

It was determined there was a total of 335 unique customer service numbers.

In the situation where a single quote/policy had two different customer representatives associated with it, a record was added to separate the customer service numbers. This action added an additional 19,040 quotes to the population of 56,093 quotes. Therefore, there were a grand total of 75,133 quotes.

The Examiners:

1. Compared the Company's report of all individuals that quoted new business in Ohio during all or part of the examination period with the agent licensing record database maintained by the Department.
2. Considered any person who was on the Company's report of all individuals that quoted new business in Ohio during all or part of the examination period but was not listed in the Department agent licensing record database to be an exception.
3. Compared the date a quote was given with the date the individual was appointed by the Company.
4. Considered any person who provided a quote either prior to the Department active date or after the Department termination date to be an exception.

Were quotes issued by agents who were appointed by the Company?

**Findings:**

|                    | Total  | Yes    | No     | Standard | % Compliance |
|--------------------|--------|--------|--------|----------|--------------|
| # of Quotes issued | 75,133 | 38,381 | 36,752 | 90%      | 51%          |

The standard of compliance is 90%. The Company's performance was below the minimum standards.

|                                     | Total | Yes | No  | Standard | % Compliance |
|-------------------------------------|-------|-----|-----|----------|--------------|
| # of Sales Representatives involved | 335*  | 62  | 273 | 90%      | 19%          |

Each sales representative is included only once. If the representative was found to have provided a quote while not being appointed at any time during the examination period, that sales representative was considered to be out of compliance.

The standard of compliance is 90%. The Company's performance was below the minimum standards.

**Examiners' Comments:**

The Department agent licensing record database indicated that 113 individuals were licensed and appointed with the Company during the examination period of April 1, 2000, through March 31, 2001.

There were a number of quotes for which the Company could not verify which representative had actually provided the quote to the Ohio consumer. Each quote listed a specific customer service representative as providing the quote. However, the Company could not always confirm which individual customer service representative actually provided the quote.

The Company appeared to use a July 5, 1994, letter from the Department as a guideline to ensure compliance with the licensing regulations of the Department. The Company failed to implement the agent appointment laws that were amended by Section 3905.011 (C) (2) of the Ohio Revised Code effective on October 1, 1998. (Replaced by Section 3905.20 on September 1, 2002.)

**Recommendations:**

1. The Company should develop and implement procedures that assure compliance to Section 3905.20 of the Ohio Revised Code.
2. The Company should develop and implement audit procedures that monitor compliance with Section 3905.20 of the Ohio Revised Code.
3. The Company should provide the Department with copies of its revised procedures and any internal correspondence that communicates any change in procedure.
4. The Company should use available electronic means of processing appointments.

5. The Company should develop and implement procedures that enable it to remain current with and aware of any changes in the rules and regulations of the Department.
6. The Company should develop and implement procedures that enable it to correctly identify the person quoting the business.

### **Advertising**

**Standard:** No company shall either engage, in this state, in any trade practice which is defined as an unfair and deceptive act or practice in the business of insurance or make, publish, or circulate any material, which is untrue, deceptive, or misleading.

**Test:** Did the companies make, publish, or circulate any material, which is untrue, deceptive, or misleading?

**Methodology:** The Department requested, and the Company supplied, copies of all advertising materials for property and casualty products, without regard to the media, used by the Companies from April 1, 2000, through March 31, 2001.

**Findings:** The Examiners reviewed all advertising and sales materials provided to determine compliance with the Ohio Revised Code. The Department, in its letter of June 19, 2001, to Mr. Jon P. Diamond and Mr. Ari Deshe, expressed the opinion that the phrase "anything more would be too expensive" used in the "Bare Minimum" and "Hunky" advertisements was troubling in that it suggests that individuals should not purchase auto insurance limits higher than the state minimum limits. The Company has advised that the advertisements containing this language have been pulled from the Company's marketing program and that this language will not appear in any future ad campaigns.

Our review of the additional advertising and sales materials did not indicate any statement or representation that appeared to be untrue, deceptive or misleading.

## PRIVATE PASSENGER AUTOMOBILE RATING AND UNDERWRITING

### Automobile Policy Cancellations

**Standard:** No cancellation of an automobile insurance policy is effective, unless it is pursuant to written notice to the insured of cancellation.

**Test:** Did the Company's cancellation procedures conform to Sections 3937.31, 3937.32, and 3937.33 of the Ohio Revised Code?

**Methodology:** The Department requested, and the Company supplied, a list of all auto policies in force more than ninety (90) days and subsequently canceled during the examination period. The Department considers an auto policy cancellation to be any auto policy not canceled in a two-year increment.

The Examiners:

1. Pulled a random sample of Company initiated automobile policy cancellations for automobile policies that were in force greater than ninety (90) days. This random sample included policies that were canceled for nonpayment of premium and policies that were canceled for underwriting reasons.
2. Requested a copy of the proof of mailing for policies that were canceled for nonpayment of premium.
3. Requested a copy of the proof of mailing for policies that were canceled for underwriting reasons.

### Cancellation of automobile policies for nonpayment of premium

Was ten days notice given prior to cancellation?

**Findings:**

| Population | Sample | Yes | No | Standard | % Compliance |
|------------|--------|-----|----|----------|--------------|
| 16,585     | 100    | 98  | 2  | 90%      | 98%          |

The standard of compliance is 90%. The Company's performance met the minimum standard.

Was reason for cancellation provided?

**Findings:**

| Population | Sample | Yes | No | Standard | % Compliance |
|------------|--------|-----|----|----------|--------------|
| 16,585     | 100    | 100 | 0  | 90%      | 100%         |

The standard of compliance is 90%. The Company's performance met the minimum standard.

Was information regarding right to appeal provided in cancellation?

**Findings:**

| Population | Sample | Yes | No | Standard | % Compliance |
|------------|--------|-----|----|----------|--------------|
| 16,585     | 100    | 100 | 0  | 90%      | 100%         |

The standard of compliance is 90%. The Company's performance met the minimum standard.

**Cancellation of automobile policies for underwriting reasons**

Was thirty days notice given prior to cancellation?

**Findings:**

| Population | Yes | No | Standard | % Compliance |
|------------|-----|----|----------|--------------|
| 157        | 138 | 19 | 90%      | 88%          |

The standard of compliance is 90%. The Company's performance was below the minimum standards.

Was reason for cancellation provided?

**Findings:**

| Population | Yes | No | Standard | % Compliance |
|------------|-----|----|----------|--------------|
| 157        | 157 | 0  | 90%      | 100%         |

The standard of compliance is 90%. The Company's performance met the minimum standard.

Was information regarding right to appeal provided in cancellation?

**Findings:**

| Population | Yes | No | Standard | % Compliance |
|------------|-----|----|----------|--------------|
| 157        | 157 | 0  | 90%      | 100%         |

The standard of compliance is 90%. The Company's performance met the minimum standard.

Was policy canceled for a reason permitted by Section 3937.31 of the Ohio Revised Code?

**Findings:**

| Population | Yes | No | Standard | % Compliance |
|------------|-----|----|----------|--------------|
| 157        | 154 | 3  | 90%      | 98%          |

The standard of compliance is 90%. The Company's performance met the minimum standard.

**Recommendation:**

The Company should develop and implement revised cancellation procedures to assure that their automobile cancellation notices give at least 30 days notice of cancellation for policies canceled for reasons other than nonpayment of premium.

**Automobile Policy Nonrenewals**

**Standard:** No nonrenewal of an automobile insurance policy is effective, unless it is pursuant to written notice to the insured of nonrenewal.

**Test:** Did the Company's nonrenewal procedures conform to Sections 3937.31 and 3937.34 of the Ohio Revised Code?

Was thirty days notice given prior to nonrenewal?

**Findings:**

| Population | Yes | No | Standard | % Compliance |
|------------|-----|----|----------|--------------|
| 30         | 28  | 2  | 90%      | 93%          |

The standard of compliance is 90%. The Company's performance met the minimum standard.

Was the reason for nonrenewal provided?

**Findings:**

| Population | Yes | No | Standard | % Compliance |
|------------|-----|----|----------|--------------|
| 30         | 28  | 2  | 90%      | 93%          |

The standard of compliance is 90%. The Company's performance met the minimum standard.

Was the policy nonrenewed at a two-year anniversary?

**Findings:**

| Population | Yes | No | Standard | % Compliance |
|------------|-----|----|----------|--------------|
| 30         | 19  | 11 | 90%      | 63%          |

The standard of compliance is 90%. The Company's performance was below the minimum standards.

**Examiners' Comments:**

The Examiners removed one policy from the original nonrenewal population of 31 files because the policy was canceled at the insured's request and was not renewed.

**Recommendation:**

The Company should develop and implement revised cancellation procedures to recognize two-year guarantee periods in the processing of its automobile policy nonrenewals.

## AUTOMOBILE CLAIM SETTLEMENTS

### Timely Contact with First and Third Party Claimants

**Standard:** An insurer shall acknowledge the receipt of a claim within ten (10) days of receiving such notification.

**Test:** Did the Company make timely contact with first and third party claimants following the report of a claim per Rule 3901-1-54 (F) (2) of the Ohio Administrative Code?

**Methodology:** The Department requested, and the Company supplied, a report of all automobile material damage claims.

The following claim features were sampled to test for compliance:

- Collision Partial Losses
- Collision Total Losses
- Property Damage Partial Losses
- Property Damage Total Losses

The Examiners:

1. Collected from the Company's claim files the date the claimant notified the Company of the loss and the date the Company's claim file showed documentation of the first contact with that specific claimant.
2. Collected from the Company's claim files the date the Company had sufficient information to contact the third party claimant.
3. Tested the data on the first claimant listed in the Company's claim file in any claim where there was more than one Property Damage claimant.

4. Used a standard business database application to calculate the number of days from the date the claimant reported the claim to the date the Company made initial contact with the claimant.
5. Considered as an error any claim where the number of days exceeded ten (10) calendar days.
6. Considered as an error any claim file, which lacked adequate documentation to test for compliance.

Was contact timely with first and third party claimants?

**Findings:**

| Claim Feature     | Population | Sample | Yes | No | Standard | % Compliance |
|-------------------|------------|--------|-----|----|----------|--------------|
| Collision Partial | 926        | 50     | 50  | 0  | 93%      | 100%         |
| Collision Total   | 231        | 50     | 50  | 0  | 93%      | 100%         |
| PD Partial        | 1372       | 50     | 49  | 1  | 93%      | 98%          |
| PD Total          | 181        | 46     | 46  | 0  | 93%      | 100%         |

The standard of compliance is 93%. The Company's performance met the minimum standard.

**Examiners' Comments:**

The Examiners removed from the property damage total loss sample two (2) claims that were not property damage total losses.

The Examiners removed from the property damage total loss sample one (1) claim, where the property damage was a claimant's yard.

The Examiners removed from the property damage total loss sample one (1) claim, where the claimant's insurance company handled the property damage to the claimant's vehicle.

## **Timely Payment of Undisputed First Party Claims and Third Party Claims**

**Standard:** When the amount of a first party claim is known and not in dispute, an insurer is required to tender payment within ten (10) days of acceptance of a claim.

**Test:** Did the Company make timely payments to first party claimants per Rule 3901-1-54 (G) (6) of the Ohio Administrative Code?

**Standard:** When any amount finally agreed upon in settlement of all or part of any claim or authorized repairs is made, an insurer is required to tender payment not later than five (5) working days from the receipt of such agreement.

**Test:** Did the Company make timely payments to third party claimants per Rule 3901-1-07 (C) (16) of the Ohio Administrative Code?

**Methodology:** The Department requested, and the Company supplied, a report of all automobile material damage claims.

The following claim features were sampled to test for compliance:

- Collision Partial Losses
- Collision Total Losses
- Property Damage Partial Losses
- Property Damage Total Losses

The Examiners:

1. Collected from the Company's claim files the date the claim amount was known and not in dispute. The Examiners considered this date to be the date the Company and its insured agreed on the amount of the repair estimate or the actual cash value in the case of an automobile total loss.

2. Collected from the Company's claim files the date the claim amount was paid. The Examiners considered this date to be the date the Company issued a check to the insured and/or the body shop.
3. Used a standard business database application to calculate the number of days from the date the claim amount was known and agreed to the date the claim was paid.
4. Considered as an error any claim where more than 10 days elapsed after the amount of the claim was known and agreed before payment was made.
5. Considered as an error any claim file, which lacked adequate documentation to test for compliance.

Were claim payments made in a timely fashion?

**Findings:**

| Claim Feature     | Population | Sample | Yes | No | Standard | % Compliance |
|-------------------|------------|--------|-----|----|----------|--------------|
| Collision Partial | 926        | 50     | 50  | 0  | 93%      | 100%         |
| Collision Total   | 231        | 50     | 50  | 0  | 93%      | 100%         |
| PD Partial        | 1,372      | 50     | 48  | 2  | 93%      | 96%          |
| PD Total          | 181        | 46     | 45  | 1  | 93%      | 98%          |

The standard of compliance is 93%. The Company's performance met the minimum standard.

**Examiners' Comments:**

The Examiners removed from the property damage total loss sample two (2) claims that were not property damage total losses.

The Examiners removed from the property damage total loss sample one (1) claim, where the property damage was a claimant's yard.

The Examiners removed from the property damage total loss sample one (1) claim, where the claimant's insurance company handled the property damage to the claimant's vehicle.

### **LKQ and NON-OEM Repair Parts Disclosure—Partial Losses**

**Standard:** When a partial loss is settled on the basis of a written estimate prepared by or for an insurer, the estimate must clearly indicate any “like kind and quality” parts expected to be used and the location of the licensed salvage dealer.

**Test:** Did the written estimate clearly indicate the location of the licensed salvage dealer where the “like kind and quality” parts are to be obtained per Rule 3901-1-54 (H) (4) of the Ohio Administrative Code?

**Standard:** When a partial loss is settled on the basis of a written estimate prepared by or for an insurer, the estimate must clearly indicate the use of Nonoriginal Equipment Manufacturer Aftermarket Crash Parts in compliance with Section 1345.81 of the Ohio Revised Code.

**Test:** Did the written estimate clearly indicate the use of Nonoriginal Equipment Manufacturer Aftermarket Crash Parts in compliance with Section 1345.81 of the Ohio Revised Code?

**Methodology:** The Department requested, and the Company supplied, a report of all automobile material damage claims.

The following claim features were sampled to test for compliance:

- Collision Partial Losses
- Property Damage Partial Losses

The Examiners:

1. Considered first party and third party claims to be separate populations.
2. Selected random samples from each population.
3. Reviewed the estimates contained in each partial loss file in the sample.
4. Tested the data on the first claimant listed in the Company's file(s) in any claim where there was more than one Property Damage claimant.
5. Identified those claims where the Company's repair estimate included salvage parts.
6. Identified those claims where the Company's repair estimate included Nonoriginal Equipment Manufacturer Aftermarket Crash Parts.
7. Tested the files so identified to determine whether or not the Company's repair estimate was in compliance.
8. Considered to be an error any claim where the Company's written estimate did not include the name and location of the licensed salvage dealer where the "like kind and quality part" was obtained.
9. Considered to be an error any claim where the Company's written estimate did not contain the following language: "This estimate has been prepared based upon the use of one or more aftermarket crash parts supplied by a source other than the manufacturer of your motor vehicle. Warranties applicable to these aftermarket crash parts are provided by the parts manufacturer or distributor rather than by your own motor vehicle manufacturer."
10. Considered as an error any claim file, which lacked adequate documentation to test for compliance.

Did the Company comply with the requirements to indicate "like kind and quality" parts on the repair estimate?

**Findings:**

| Claim Feature     | Population | Sample | Yes | No | Standard | % Compliance |
|-------------------|------------|--------|-----|----|----------|--------------|
| Collision Partial | 926        | 50     | 50  | 0  | 93%      | 100%         |
| PD Partial        | 1,372      | 50     | 50  | 0  | 93%      | 100%         |

The standard of compliance is 93%. The Company's performance met the minimum standard.

Did the Company comply with the requirements to indicate use of nonoriginal equipment manufacturer aftermarket crash parts on the repair estimate?

**Findings:**

| Claim Feature     | Population | Sample | Yes | No | Standard | % Compliance |
|-------------------|------------|--------|-----|----|----------|--------------|
| Collision Partial | 926        | 50     | 49  | 1  | 93%      | 98%          |
| PD Partial        | 1,372      | 50     | 49  | 1  | 93%      | 98%          |

The standard of compliance is 93%. The Company's performance met the minimum standard.

**Actual Cash Value—Total Losses**

**Standard:** Insurers are required to calculate actual cash value on total loss claims in a manner, which takes into primary consideration the claimant's local, retail automobile market.

**Test:** Did the Company calculate actual cash value on total losses in a manner, which conformed with Rule 3901-1-54 (H) (6) (a-d) and (H) (7) (a-e) of the Ohio Administrative Code?

**Methodology:** The Department requested, and the Company supplied, a report of all Collision and Property Damage claims settled as total losses.

The following claim features were sampled to test for compliance:

- Collision Total Losses
- Property Damage Total Losses

The Examiners:

1. Considered first party and third party claims to be separate populations.
2. Selected random samples from each population.
3. Tested the data on the first claimant listed in the Company's file(s) in any claim where there was more than one Property Damage claimant.
4. Considered as an error any instance where the Company's total loss settlement records, hard copy and/or electronic, showed apparent noncompliance with Rule 3901-1-54 (H) (6) (a-d) and (H) (7) (a-e) of the Ohio Administrative Code.
5. Considered as an error any claim file that lacked adequate documentation to test the file for compliance.

Were actual cash values calculated correctly?

**Findings:**

| Claim Feature   | Population | Sample | Yes | No | Standard | % Compliance |
|-----------------|------------|--------|-----|----|----------|--------------|
| Collision Total | 231        | 50     | 49  | 1  | 93%      | 98%          |
| PD Total        | 181        | 46     | 45  | 1  | 93%      | 98%          |

The standard of compliance is 93%. The Company's performance met the minimum standard.

**Examiners' Comments:**

The Examiners removed from the property damage total loss sample two (2) claims that were not property damage total losses.

The Examiners removed from the property damage total loss sample one (1) claim, where the property damage was a claimant's yard.

The Examiners removed from the property damage total loss sample one (1) claim, where the claimant's insurance company handled the property damage to the claimant's vehicle.

### **Sales Tax—Total Losses**

**Standard:** When an insurer elects to make a cash settlement in payment of an automobile total loss claim, the company is obliged to pay sales tax on the actual cash value of the claim or show evidence that the claimant was advised of his/her right to sales tax reimbursement following the purchase of a replacement vehicle.

**Test:** Did the Company conform to the sales tax provisions of Rule 3901-1-54 (H) (6) (c) and (H) (7) (e) of the Ohio Administrative Code?

**Methodology:** The Department requested, and the Company supplied, a report of all Collision and Property Damage claims settled as total losses.

The following claim features were sampled to test for compliance:

- Collision Total Losses
- Property Damage Total Losses

The Examiners:

1. Considered first party and third party claims to be separate populations.
2. Selected random samples from each population.
3. Tested the data on the first claimant listed in the Company's file(s) in any claim where there was more than one Property Damage claimant.

4. Considered as an error any instance where the Company's total loss settlement records, hard copy and/or electronic, showed apparent noncompliance with Rule 3901-1-54 (H) (6) (c) and (H) (7) (e) of the Ohio Administrative Code.

Were sales taxes paid or was claimant advised of right to sales tax reimbursement?

**Findings:**

| Claim Feature   | Population | Sample | Yes | No | Standard | % Compliance |
|-----------------|------------|--------|-----|----|----------|--------------|
| Collision Total | 231        | 50     | 43  | 7  | 93%      | 86%          |
| PD Total        | 181        | 46     | 43  | 3  | 93%      | 93%          |

The standard of compliance is 93%. The Company's performance was below the minimum standards for collision total losses. The Company's performance met the minimum standard for property damage total losses.

**Examiners' Comments:**

The Examiners removed from the property damage total loss sample two (2) claims that were not property damage total losses.

The Examiners removed from the property damage total loss sample one (1) claim, where the property damage was a claimant's yard.

The Examiners removed from the property damage total loss sample one (1) claim, where the claimant's insurance company handled the property damage to the claimant's vehicle.

**Recommendations:**

1. The Company should clearly identify how actual cash value was calculated in all claim files.
2. The Company should clearly identify the calculation of the applicable sales tax.

3. The Company should clearly document that either the claimant was paid sales tax or the claimant was advised of his/her right to sales tax reimbursement following the purchase of a replacement vehicle in all claim files where sales tax payment has not been made.

### **Subrogation Recovery**

**Standard:** An insurer is required to include the first party claimant's deductible, if any, in its subrogation demands.

**Test:** Did the Company include the first party claimant's deductible, if any, in its subrogation demands in order to conform to Rule 3901-1-54 (H) (10) of the Ohio Administrative Code?

**Standard:** An insurer must be able to reconstruct its activities in regard to any claim, by documentation appropriate for the type and size of the claim.

**Test:** Did the Company document the results of their subrogation activity in order to conform to Rule 3901-1-54 (D) (2) of the Ohio Administrative Code?

**Methodology:** The Department requested, and the Company supplied, a report of closed subrogation files on which the Company made demands to third parties on paid collision losses.

The Examiners:

1. Selected random samples from the population.
2. Removed any claim where the Company paid the subrogation demands of another party.
3. Removed any claim where the subrogation demand was for medical payments only.

4. Removed any claim where subrogation was not pursued because of sovereign immunity.

Was first party claimant's deductible included in subrogation demand?

**Findings:**

| Claim Feature      | Population | Sample | Yes | No | Standard | % Compliance |
|--------------------|------------|--------|-----|----|----------|--------------|
| Subrogation Demand | 178        | 49     | 49  | 0  | 93%      | 100%         |

The standard of compliance is 93%. The Company's performance met the minimum standard.

**Examiners' Comments:**

The Examiners removed one claim from the subrogation sample because the subrogation demand was for medical payments.

Did Company document the results of its subrogation recovery activity?

**Findings:**

| Claim Feature      | Population | Sample | Yes | No | Standard | % Compliance |
|--------------------|------------|--------|-----|----|----------|--------------|
| Subrogation Demand | 178        | 49     | 49  | 0  | 93%      | 100%         |

The standard of compliance is 93%. The Company's performance met the minimum standard.

**Examiners' Comments:**

The Examiners removed one claim from the subrogation sample because the subrogation demand was for medical payments.

**Collision Claims Closed Without Payment**

**Standard:** An insurer must be able to reconstruct its activities in regard to any claim, by documentation appropriate for the type and size of the claim. If the claim is closed, the period for retention is no less than three (3) years or until completion of the next Financial Examination by the state of domicile, whichever is greater.

**Test:** Did the Company document collision claims closed without payment in a manner, which conformed to Rule 3901-1-54 (D) (2) of the Ohio Administrative Code?

**Methodology:** The Department requested, and the Company supplied, a report of collision claims closed without payment.

The Examiners considered as an error any claim file, which lacked adequate documentation of the reason for closing the claim without payment.

Were claim files adequately documented?

**Findings:**

| Population | Sample | Yes | No | Standard | % Compliance |
|------------|--------|-----|----|----------|--------------|
| 1,061      | 50     | 50  | 0  | 93%      | 100%         |

The standard of compliance is 93%. The Company's performance met the minimum standard.

**Property Damage Claims Closed Without Payment**

**Standard:** An insurer must be able to reconstruct its activities in regard to any claim, by documentation appropriate for the type and size of the claim. If the claim is closed, the period for retention is no less than three (3) years or until completion of the next Financial Examination by the state of domicile, whichever is greater.

**Test:** Did the Company document property damage claims closed without payment in a manner that conformed to Rule 3901-1-54 (D) (2) of the Ohio Administrative Code?

**Methodology:** The Department requested, and the Company supplied, a report of property damage claims closed without payment.

The Examiners considered as an error any claim file, which lacked adequate documentation of the reason for closing the claim without payment.

Were claim files adequately documented?

**Findings:**

| Population | Sample | Yes | No | Standard | % Compliance |
|------------|--------|-----|----|----------|--------------|
| 992        | 50     | 50  | 0  | 93%      | 100%         |

The standard of compliance is 93%. The Company's performance met the minimum standard.

**Standard:** Any motor vehicle liability policy that has been certified as "proof of financial responsibility" imposes absolute liability on an insurer whenever injury or damage covered by the policy occurs per Section 4509.53 of the Ohio Revised Code. As such, any third party liability claim must be paid or denied in accordance with Rule 3901-1-07 of the Ohio Administrative Code.

**Test:** Was the denial of payment in compliance with Rule 3901-1-07 of the Ohio Administrative Code given that the Company had certified proof of financial responsibility in accordance with Section 4509.53 of the Ohio Revised Code?

**Methodology:** The Department requested, and the Company supplied, a report of property damage claims closed without payment.

The Examiners considered as an error any claim file for which third party liability was denied after the Company had certified proof of financial responsibility by filing a SR-22 Financial Responsibility Form.

Were claim files properly denied?

**Findings:**

| Population | Sample | Yes | No | Standard | % Compliance |
|------------|--------|-----|----|----------|--------------|
| 992        | 50     | 48  | 2  | 93%      | 96%          |

The standard of compliance is 93%. The Company's performance met the minimum standards.

**Uninsured/Underinsured Motorist Claims Closed Without Payment**

**Standard:** An insurer must be able to reconstruct its activities in regard to any claim, by documentation appropriate for the type and size of the claim. If the claim is closed, the period for retention is no less than three (3) years or until completion of the next Financial Examination by the state of domicile, whichever is greater.

**Test:** Did the Company document uninsured/underinsured motorist claims closed without payment in a manner that conformed to Rule 3901-1-54 (D) (2) of the Ohio Administrative Code?

**Methodology:** The Department requested, and the Company supplied, a report of uninsured/underinsured motorist claims closed without payment.

The Examiners considered as an error any claim file, which lacked adequate documentation of the reason for closing the claim without payment.

Were claim files adequately documented?

**Findings:**

| Population | Sample | Yes | No | Standard | % Compliance |
|------------|--------|-----|----|----------|--------------|
| 92         | 50     | 50  | 0  | 93%      | 100%         |

The standard of compliance is 93%. The Company's performance met the minimum standard.

**Bodily Injury Claims Closed Without Payment**

**Standard:** An insurer must be able to reconstruct its activities in regard to any claim, by documentation appropriate for the type and size of the claim. If the claim is closed, the period for retention is no less than three (3) years or until completion of the next Financial Examination by the state of domicile, whichever is greater.

**Test:** Did the Company document bodily injury claims closed without payment in a manner that conformed to Rule 3901-1-54 (D) (2) of the Ohio Administrative Code?

**Methodology:** The Department requested, and the Company supplied, a report of bodily injury claims closed without payment.

The Examiners considered as an error any claim file, which lacked adequate documentation of the reason for closing the claim without payment.

Were claim files adequately documented?

**Findings:**

| Population | Yes | No | Standard | % Compliance |
|------------|-----|----|----------|--------------|
| 230        | 230 | 0  | 93%      | 100%         |

The standard of compliance is 93%. The Company's performance met the minimum standard.

**Examiners' Comments:**

The Examiners removed two claims from the original bodily injury claims closed without payment population of 232 files because bodily injury claim payments were made.

**Standard:** Any motor vehicle liability policy that has been certified as "proof of financial responsibility" imposes absolute liability on an insurer whenever injury or damage covered by the policy occurs per Section 4509.53 of the Ohio Revised Code. As such, any third party liability claim must be paid or denied in accordance with Rule 3901-1-07 of the Ohio Administrative Code.

**Test:** Was the denial of payment in compliance with Rule 3901-1-07 of the Ohio Administrative Code given that the Company had certified proof of financial responsibility in accordance with Section 4509.53 of the Ohio Revised Code?

**Methodology:** The Department requested, and the Company supplied, a report of bodily injury claims closed without payment.

The Examiners considered as an error any claim file for which third party liability was denied after the Company had certified proof of financial responsibility by filing a SR-22 Financial Responsibility Form.

Were claim files properly denied?

**Findings:**

| Population | Yes | No | Standard | % Compliance |
|------------|-----|----|----------|--------------|
| 230        | 224 | 6  | 93%      | 97%          |

The standard of compliance is 93%. The Company's performance met the minimum standards.

**Examiners' Comments:**

The Examiners removed two claims from the original bodily injury claims closed without payment population of 232 files because bodily injury claim payments were made.

**SUMMARY**

The examination found the Company to be out of compliance in the following areas:

| <u>Areas of Review</u>                                  | <u>Compliance Standard</u> | <u>Compliance Rate</u> |
|---|----------------------------|------------------------|
| <b>MARKETING AND ADVERTISING</b>                        |                            |                        |
| Agent Licensing – by Number of Quotes                   | 100%                       | 80%                    |
| Agent Licensing – by Number of Sales Representatives    | 100%                       | 36%                    |
| Agent Appointments - by Number of Quotes                | 90%                        | 51%                    |
| Agent Appointments – by Number of Sales Representatives | 90%                        | 19%                    |
| <b>PRIV. PASS. AUTO RATING AND UNDERWRITING</b>         |                            |                        |
| Underwriting Cancellation – 30 Days Notice              | 90%                        | 88%                    |
| Nonrenewal at 2 Year Anniversary                        | 90%                        | 63%                    |
| <b>AUTOMOBILE CLAIM SETTLEMENTS</b>                     |                            |                        |
| Sales Tax Paid on Total Losses                          | 93%                        | 86%                    |

This concludes the Ohio market conduct examination of Safe Auto Insurance Company.

Robert Baker

Robert Baker

Examiner in Charge

August 13, 2004

Date

## COMPANY RESPONSE



July 20, 2004

Mr. Daniel J. Atkisson, CPCU, CIDM, CIE  
Insurance Compliance Supervisor  
Ohio Department of Insurance  
2100 Stella Court  
Columbus, OH 43215-1067

RECEIVED  
JUL 26 2004  
OHIO DEPT. OF INSURANCE  
MARKET CONDUCT DIVISION

Executive Offices

Dear Mr. Atkisson:

We respectfully submit the Company's responses to the examiners' findings and recommendations included in Ohio Department of Insurance's draft Report of the Market Conduct Examination of Safe Auto Insurance Company, dated June 24, 2004. The Company's responses follow the same order as your findings and address only those findings that the Department indicated were below standard.

### MARKETING AND ADVERTISING

#### Company's Response: Agent Licensing

The Department's comments are correct to state that Safe Auto relied on the Department's letter of July 5, 1994 to ensure the Company's continuing compliance with Ohio's licensing regulations. The Company had previously ensured continued compliance by the implementation of all five (5) of the Department's recommendations regarding licensing regulations of Section 3905.02 of the Ohio Revised Code.

#### Company's Response: Agent Appointments

The Department's comments are correct to state that Safe Auto relied on the Department's letter of July 5, 1994 to ensure the Company's continuing compliance with Ohio's appointment regulations. The Company had previously ensured continued compliance by the implementation of all six (6) of the Department's recommendations regarding appointment regulations of Section 3905.20 of the Ohio Revised Code.

### PRIVATE PASSENGER AUTOMOBILE RATING AND UNDERWRITING

#### Company's Response: Automobile Policy Cancellations requiring thirty days notice

The Company has implemented cancellation policies, procedures and controls to ensure it provides policyholders with at least thirty days notice of cancellation for policies canceled outside the underwriting period for reasons other than nonpayment of premium, in accordance with Ohio Revised Code 3937.32.

3883 East Broad Street • Columbus, Ohio 43213-1129 • Tel. 614/231-0200 • www.safeauto.com

Responses to the Report of the Market Conduct Examination  
Page 2 of 2

**Company's Response: Automobile Policy Nonrenewals**

The Company has implemented policies, procedures and controls to ensure it recognizes the two-year guarantee periods in the processing of automobile policy renewals in compliance with Ohio Revised Code 3937.31.

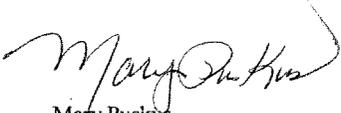
**AUTOMOBILE CLAIM SETTLEMENT**

**Company's Response: Sales Tax Paid on Total Losses**

The Company has reinforced its procedures and controls to ensure that sales tax on total loss claims is paid in accordance with Ohio Administrative Code 3901-1-54 (H) (7) (e). These procedures and controls provide reasonable assurance that the Company maintains in settled total loss claims files the documentation of how the actual cash value of vehicles was determined, the calculation of applicable sales tax, and if applicable, documentation that either the claimant was paid sales tax, or the claimant was advised of his or her right to sales tax reimbursement following the purchase of a replacement vehicle.

We believe the Company has taken the appropriate action to resolve all issues identified in the Department's Market Conduct Examination. If you have any questions, please call me at 614-231-0200, extension 7704.

Sincerely,



Mary Puskus  
Vice President, Underwriting  
Safe Auto Insurance Company

**STATE OF OHIO**  
**DEPARTMENT OF INSURANCE**  
2100 Stella Court  
Columbus, Ohio 43215-1067

**IN THE MATTER OF** : **CONSENT ORDER**  
**SAFE AUTO INSURANCE COMPANY** :  
**MARKET CONDUCT EXAMINATION** :

The Superintendent of the Ohio Department of Insurance ("Department") is responsible for administering Ohio insurance laws pursuant to Section 3901.011 of the Ohio Revised Code ("R.C."). The Department conducted a market conduct examination of Safe Auto Insurance Company ("Company"). The Company is authorized to engage in the business of insurance in the State of Ohio and, as such, is under the jurisdiction of the Superintendent and the Department. The Department examined the Company's private passenger automobile insurance business in the State of Ohio for the period of April 1, 2000 through March 31, 2001. Specifically, the examination focused on the Company's history, operations, certificate of authority, marketing and advertising, private passenger automobile rating and underwriting, and automobile claim settlements.

SECTION I

BASED UPON THE EXAMINATION, THE SUPERINTENDENT DETERMINED THAT:

The Company was found to be out of compliance in its agent licensing and appointments, in its underwriting cancellation notices and non-renewals, and in its payment of applicable sales tax paid on total losses. The Company was also found to be out of compliance in its practice of settling certain liability claims.

SECTION II

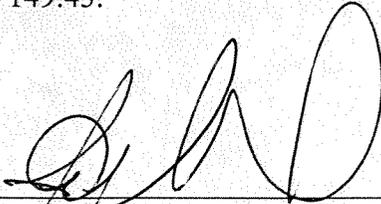
IT IS HEREBY AGREED TO BY THE PARTIES THAT:

- A. The Superintendent and the Company enter into this Consent Order to resolve the allegations as set forth in Section I of this order. Further, the Company admits to the allegations set forth in Section I.
- B. The Company has been advised that it has a right to a hearing before the Superintendent pursuant to R.C. Chapter 119; that, at a hearing, it would be entitled to appear in person, to be represented by an attorney or other representative who is permitted to practice before the agency; and that, at a hearing, it would be entitled to present its position, arguments or contentions in writing and to present evidence and examine witnesses appearing for and against it. The Company hereby waives all such rights.
- C. The Company consents to the jurisdiction of the Superintendent and the Department to determine the issue set forth herein. The Company expressly waives any prerequisites to jurisdiction that may exist.

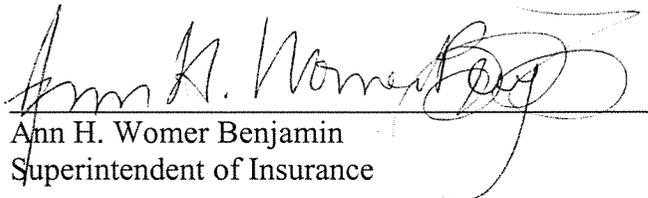
- D. The Company has represented to the Department that it has instituted policies, procedures and controls to ensure continuing compliance with the agent licensing and appointment requirements of current R.C. 3905.02 and current R.C. 3905.20.
- E. The Company has represented to the Department that it has instituted policies, procedures and controls to ensure compliance with the cancellation notification requirements found in R.C. 3937.33.
- F. The Company has represented to the Department that it has instituted policies, procedures and controls to ensure compliance with the policy non-renewal requirements found in R.C. 3937.31 and/or 3937.34.
- G. The Company has represented to the Department that it has instituted policies, procedures and controls to ensure that sales tax on total losses is paid in accordance with Ohio Administrative Code ("O.A.C.") 3901-1-54.
- H. The Company will pay an administrative fine in the amount of fifty thousand dollars (\$50,000.00). Twenty-five thousand dollars (\$25,000.00) is due and payable by check or money order made payable to the "Ohio Department of Insurance" no later than thirty (30) days after the date of execution of this Consent Order. The remainder of the fine shall be suspended pending the outcome of the re-examination of the company's business. The remaining twenty-five thousand dollars (\$25,000.00) shall immediately become due and payable should the re-examination reveal that the same violations, as found in the Department's most recent market conduct examination of the Company, occurred.
- I. The Company will pay \$22,524.16 administrative costs incurred by the Department to perform the Market Conduct examination. The Department will submit an invoice to the Company for payment.
- J. The Company waives any and all causes of action, claims or rights, known or unknown, which it may have against the Department, and any employees, agents, consultants, contractors or officials of the Department, in their individual and official capacities, as a result of any acts or omissions on the part of such persons or firms arising out of this matter.
- K. The Company has read and understands this Consent Order. The Company further understands that it has the right to seek counsel of its choice and to have counsel review this Consent Order.
- L. This Consent Order has the full force and effect of an Order of the Superintendent. Failure to abide by the terms of this agreement shall constitute an actionable violation in and of itself without further proof and may subject the Company to any and all remedies available to the Superintendent.

M. This Consent Order shall be entered in the Journal of the Ohio Department of Insurance. All parties understand and acknowledge that this Consent Order is a public document pursuant to R.C. 149.43.

Date: 6/29/04

  
\_\_\_\_\_  
Jon P. Diamond  
President  
Safe Auto Insurance Company

Date: 6/30/04

  
\_\_\_\_\_  
Ann H. Womer Benjamin  
Superintendent of Insurance