

Master File No. 30260/TLB
Master File No. 31329/TJP

**STATE OF MINNESOTA
COMMISSIONER OF COMMERCE**

In the Matter of the Certificate of Authority
of The Auto Club Group
a Michigan corporation licensed
to do business in the State of Minnesota
NAIC Nos. 11983, 21202

CONSENT ORDER

To: The Auto Club Group
1 Auto Club Drive
Dearborn, MI 48126

1. Commissioner of Commerce Mike Rothman (“Commissioner”) has advised The Auto Club Group, Auto Club Group Property-Casualty Insurance Company, and their affiliated entities (collectively, “Respondents”) that he is prepared to commence formal action pursuant to Minn. Stat. § 45.027 (2014) and other applicable law against Respondents’ Certificate of Authority to engage in the business of insurance in Minnesota, based on the following allegations resulting from the Minnesota Department of Commerce’s (the “Department”) review of 125 automobile glass and automobile accident claim files:

- A. Respondents’ glass administrator and its affiliated entities (collectively, “Safelite”), while administering automobile glass claims, failed to provide the required advisory to insureds before recommending the use of Respondents’ network of preferred glass vendors;
- B. Respondents’ glass administrator Safelite, while administering automobile glass claims, advised insureds that they may not receive a warranty from Respondents for work performed by non-preferred glass vendors;

- C. Respondents' glass administrator Safelite, while administering automobile glass claims, advised that insureds may be balance billed by non-preferred glass vendors;
- D. Non-preferred glass vendors, which had valid assignments of benefits from Respondents' insureds, instituted proceedings in arbitration to recover disputed amounts and, in some cases, prevailed; and
- E. Respondents failed to reasonably investigate all available facts and information in making assignments of comparative negligence percentages in numerous claims when ascertaining automobile accident liability.

The Commissioner alleges that the above-listed conduct violates Minn. Stat. §§ 72A.20, subd. 12(6), (7) and 72A.201, subd. 6(9), (14), (16) (2014). With respect to these allegations, there has been no hearing, findings of fact, or conclusions of law. Moreover, this Consent Order constitutes a settlement of the parties' disputes regarding these allegations.

2. Respondents acknowledge that they have been advised of their right to a hearing in this matter, to present argument to the Commissioner, and to appeal from any adverse determination after a hearing. Respondents hereby expressly waive that right. Respondents further acknowledge that they have been represented by legal counsel throughout these proceedings.

3. Respondents have agreed to informal disposition of this matter without a hearing as provided under Minn. Stat. § 14.59 (2014) and Minn. R. 1400.5900 (2013).

4. The following Order is in the public interest.

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to Minn. Stat. § 45.027, subd. 6 (2014), that Respondents shall pay to the state of Minnesota a civil penalty in the amount of \$150,000.00.

IT IS FURTHER ORDERED, pursuant to Minn. Stat. § 45.027, subd. 5(a) (2014), that Respondents shall cease and desist from using Safelite Solutions, or any other subsidiary of Safelite Group, Inc., as their administrator of automobile glass claims in Minnesota on or before February 1, 2015. Nothing herein prohibits: (1) any claimant or insured from using the glass repair or replacement services of Safelite Group, Inc.; (2) Respondents from including Safelite Group, Inc. as a glass vendor in their preferred provider program; or (3) Respondents from utilizing Safelite Solutions as a supplemental call center for home and automobile claims due to storm-related events resulting in unexpected volume.

IT IS FURTHER ORDERED, pursuant to Minn. Stat. § 45.027, subd. 5(a) (2014), that Respondents shall cease and desist from informing insureds about any alleged benefits of using Respondents' preferred glass vendors prior to stating the required advisory pursuant to Minn. Stat. § 72A.201, subd. 6(14) (2014).

IT IS FURTHER ORDERED, pursuant to Minn. Stat. § 45.027, subd. 5(a) (2014), that Respondents shall cease and desist from informing insureds they may not receive a proper warranty from and/or may be balance-billed by non-preferred glass vendors, unless Respondents have specific information proving the assertion(s) to be true for a certain vendor.

IT IS FURTHER ORDERED, that Respondents shall within thirty (30) days of the effective date of this Order develop practices and procedures to ensure that each and every independent adjuster, as defined by Minn. Stat. § 72B.02, subd. 4 (2014), engaged by Respondents to adjust Minnesota claims is properly licensed in Minnesota.

IT IS FURTHER ORDERED, that Respondents shall, in each and every claim file for automobile bodily injury and/or property damage, document any and all relevant reasons which Respondents rely upon in determining that someone other than the insured bears some percentage of fault as a result of a comparative negligence determination or assessment.

IT IS FURTHER ORDERED, that Respondents shall:

- A. Identify each and every Minnesota automobile accident claim reported to Respondents between January 1, 2014 and June 30, 2014 where a comparative negligence percentage was assigned, excluding those claims in which a claimant was represented by counsel, subrogation claims, claims decided through arbitration, and claims in which both parties' insurance companies reached agreement as to liability.
- B. Within thirty (30) days of the completion of A. above, Respondents shall appoint, contract, or designate an independent party (the "Reviewer") to review each claim identified in A. above to determine whether Respondents' investigation of the claim and assessment of comparative negligence was compliant with Minnesota statutes and rules, including, without limitation, Minn. Stat. §§ 72A.20, subd. 12(4) and 72A.201, subd. 6(9) (2014). The Reviewer shall be recommended by Respondent and approved by the Commissioner.
- C. The Reviewer shall notify Respondents of each claim from A. above that the Reviewer determines requires supplemental investigation.

- D. Respondent shall, within thirty (30) days of the Reviewer's notification from C. above, take all necessary steps to complete any supplemental investigation and provide an accounting of the same to the Reviewer.
- E. Upon completion of D. above, the Reviewer shall determine whether Respondents' investigation, as supplemented, complies with Minnesota statutes and rules, including, without limitation, Minn. Stat. § 72A.20, subd. 12(4) (2014).
- F. Respondents shall thereafter make appropriate adjustments in the fault determination percentages for the claims identified in D. above so that percentages are based on the totality of the facts available to Respondents, including facts derived from any supplemental investigation, and comply with Minnesota statutes and rules, including, without limitation, Minn. Stat. § 72A.201, subd. 6(9) (2014). This will be completed within one hundred twenty (120) days of the completion of E. above.
- G. Respondents shall thereafter pay any additional amounts owed to each claimant within thirty (30) days of the completion of F. above.
- H. Respondents shall provide the Department with a detailed report of their findings and a list of any additional payments made to claimants within thirty (30) days of the completion of G. above.

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This Order shall be effective upon signature on behalf of the Commissioner.

Dated: 1-8-2015

MIKE ROTHMAN
Commissioner

By: 
MARTIN FLEISCHHACKER
Assistant Commissioner of Enforcement

85 Seventh Place East, Suite 500
St. Paul, MN 55101
(651) 539-1538

CONSENT TO ENTRY OF ORDER

The undersigned, acting on behalf of The Auto Club Group and Auto Club Group Property-Casualty Insurance Company (collectively, "Respondents"), states that s/he has read the foregoing Consent Order; that s/he knows and fully understands its contents and effect; that s/he has been advised of Respondents' right to a hearing in this matter and expressly waives that right; that Respondents have been represented by legal counsel in these matters, or have been advised of their right to be represented by legal counsel and expressly waive that right; and that s/he consents to entry of this Order by the Commissioner. It is further understood that this Consent Order constitutes the entire settlement agreement between the parties, there being no other promises or agreements, either express or implied.

The Auto Club Group

By: *Jh Toul*
Its: *Chief operating officer*

STATE OF *Florida*
COUNTY OF *Hillsborough*

Signed or attested before me on *January 6, 2015* (date)

(stamp)

Debra Jean Perkins
(Signature of notary officer)

Title (and Rank)
My Commission expires:



**Auto Club Group Property-Casualty
Insurance Company**

By: Jh Tambi
Its: President

STATE OF Florida

COUNTY OF Hillsborough

Signed or attested before me on January 6, 2015 (date)

(stamp)

Debra Jean Perkins
(Signature of notary officer)

Title (and Rank)
My Commission expires:

