November 30, 2015

CSAC Excess Insurance Authority
ATTN: Brad Reager
75 Iron Point Circle, Suite 200
Folsom, CA 95630

Dear Brad:

I want to start out by saying the Trindel really values and appreciates the audit process. It is one of the best tools for me as Executive Director.

We have reviewed the results of the Trindel Audit that you performed on September 24, 2014. We appreciate the opportunity to provide a response. We wish to thank Ken Maiolini for his positive observations and his suggestions for improvement. The following is a corrective action plan addressing each finding.

FINDING #1--Reserves:

The reserving practice of the adjuster needs to be reevaluated by the JPA, to comply with generally accepted standards and EIA guidelines.

TRINDEL RESPONSE:

The EIA guidelines addendum B (IV A. 1.) clearly states that reserves should be set at maximum value. Although I disagree with Mr. Maiolini interpretation of the EIA guidelines, I don't disagree with his perspective, and we are happy to change the reserving practice to "realistic" as recommended.

GHC RESPONSE:

Here at GHC, we recognize that the establishing of reserves is a significant role, as it impacts critical areas such as funding levels and future debt.

All GHC adjusters have been trained that the initial establishment of claim reserves and the maintenance of those reserves is the responsibility of the adjuster assigned to the file.

The adjuster recommends expense and allocated reserves which are established on the basis of the claim's probable ultimate cost.

Reserves take into consideration many factors, including liability, as to the client and comparative fault of the claimant/plaintiff or others, nature and extent of injury, damages, prognosis, disability, expenses (medical and wage), occupation, future earning potential and any anticipated general damages. GHC's

philosophy is to establish separate reserves for Indemnity and Expense (predominately legal). These reserves are maintained within our claims database—SIMS (CMIS—Claims Management Information System). Reserve adequacy will be monitored on an ongoing basis by the adjuster as well as the supervisor assigned to the file. The initial recommended reserves set on a claim, and any subsequent modification of those recommendations, are to be entered into the CMIS which automatically generates a new Reserve form, and a copy of the form will be placed in the physical file. The adjuster is to reserve based on "most likely result." Reserves are be reviewed at every diary or should there be any new activity on the file.

While we agree with the auditors' comments, please note that our adjusters follow our GHC reserving practice only if it is consistent with the client's philosophy. In this case, the adjuster was given instructions from EIA staff to set an indemnity reserve equal to the "cost of defense" even though the adjuster's own assessment was that there was no reason to set an indemnity reserve that high.

The adjuster was also instructed to set a defense reserve based on cost through trial on any civil rights type of case or any case in litigation that was reported to CSAC-EIA. The minimum reasonable reserve for that is $125,000 so that number was commonly used.

With this information in mind, the following action will be taken to improve the situation:

- Contact the EIA and Trindel's General Manager to review reserving requirements and jointly agree on the above approach. GHC shall educate all adjusters of resulting changes to the reserve practices.

FINDING #2—Litigation Management:

Overall, Litigation Management needs to be tightened up in the areas of communication, cost control and evaluation of risk.

- ***Better communication with defense counsel***
- ***Risk Analysis when setting reserves***
- ***A defined process to determine cases that should be resolved versus litigated***

TRINDEL RESPONSE:

I agree with Mr. Maiolini and believe the high litigation cost was inherited for the most part and we are addressing that issue. I am asking that Rodger use the Defense Counsel Evaluation Form as suggested.

GHC RESPONSE:

GHC Adjusters are trained to not simply assign a file to defense counsel and "disappear." Our personnel are trained to work closely with defense counsel to develop a plan of action to form the defense of the case against the client. Each client may have their own distinct process for assignment of defense counsel. Some, for example, may choose to have their legal staff assign, some may have a defense panel to choose from, and others may have to get approval from their JPA. No matter which method is used, GHC should be involved and should document the result.

GHC requires defense counsel to provide a preliminary report (Initial Case Analysis—ICA) including budget from defense counsel within thirty days of assignment to counsel. The Adjuster or Litigation Manager must review the ICA with defense counsel to evaluate what course of discovery to take, keeping in mind what is in the best interest of the client. In cases of liability where settlement is desired, for example, limited discovery can be performed to assist in obtaining documentation that may not have been available before suit was filed. On the other hand, there are certainly times when aggressive handling is required and the full array of defense options must be utilized.

Litigation management also includes making certain that defense counsel stays true to the plan of action and within budget and to resolving the claim in the most cost-efficient manner.

Finally, litigation management includes making certain that defense counsel's bills are reviewed for appropriateness, as mandated by the American Bar Association standards or by specific instructions issued by the client.

As stated previously, the adjuster was given instructions from EIA staff to set an indemnity reserve equal to the "cost of defense" even though the adjusters own assessment was that there was no reason to set an indemnity reserve that high. The adjuster was also instructed to set a defense reserve based on cost through trial on any civil rights type of case or any case in litigation that was reported to CSAC-EIA. The minimum reasonable reserve for that is $125,000 so that number was commonly used.

In order to address certain aspects of the auditors' comments, we will request a meeting with David Nelson and Brad Reager.

With this information in mind, the following action will be taken to improve the situation; which can be modified based on above meeting:

- GHC has been recently instructed by Trindel to cease reviewing legal bills and to limit our communications regarding suggested defense actions with outside counsel.
- The "runaway expenses" represented in those files mentioned by the auditor have already been addressed by picking firms that are more efficient, both with regard to litigation management and billing practice.

Quarterly meetings have been established to review "watch list" claims with Trindel to determine cases that should be resolved versus litigated and that should be reported to CSAC-EIA.

FINDING #3-File Management, Excess Reporting:

A review of the EIA reporting guidelines by the JPA with the Claims Adjuster would be in order.

TRINDEL RESPONSE:

This was completed shortly after the audit was completed.

GHC RESPONSE:

At GHC, all adjusters have been trained that it is the responsibility of the adjuster to promptly report any case meeting the reporting requirements of the excess carrier or as instructed by the client.

In general, our adjusters notify the excess carrier as soon as possible, but no later than 30 days, upon receipt of notice of a claim; the setting of a reserve on any claim, or suit including multiple claims; suits arising out of one occurrence, such claim or reserve amounting to 50% or more of the retained limit; Title 42 USC 1983 cases in which a complaint has been served and the plaintiff is represented by legal counsel; with reserves of 25% or more of the retained limit; regardless of the reserve, any claim involving:

- One or more fatalities
- Loss of a limb
- Loss of use of any sensory organ
- Quadriplegia or paraplegia
- Third degree burns involving ten percent more of the body
- Serious facial disfigurement
- Paralysis
- Closed head injuries

We agree with the auditors' comments, and the following action will be taken to improve the situation:

- Contact the EIA to review excess reporting requirements and educate all adjusters handling EIA clients of changes to the excess reporting practices. Current practice is all reportable claims involving one or more of the above injuries are reported. For claims not involving a reportable claim, but where reserves are 50% or more of Trindel's retention, we report once the exposure information is completely in hand. This area shall be reviewed for possible changes.

Finding # 4—File Management, Financial Reconciliation:

A check and balance system does not seem to exist between the TPA and JPA. This process should be reviewed by the JPA to assure that timely and appropriate documentation is being provided by the TPA on closed and/or cases that exceed the SIR.

TRINDEL RESPONSE:

It has been expressed to our claims adjuster that Trindel expects the adjuster to handle the file from beginning to end, including the recording of reimbursement from excess carriers and subrogation collections. We are currently developing a report with GHC that I believe will allow us to see our success in capturing all recoverable dollars.

GHC RESPONSE:

GHC is responsible for making all payments and sending a monthly report to Trindel, who handles the reconciliation process.

In order to address certain aspects of the auditors' comments, we will request a meeting with David Nelson.

With this information in mind, the following action will be taken to improve the situation, which can be modified based on above meeting:

- We will review the current process in place with Trindel. Should any updates be needed, we will make sure that procedures are written and applied to the process.

Sincerely,

Randy Rendig
President of Claims Administration

David Nelson
Executive Director, Trindel Insurance Fund

cc: Ken Maiolini