

managers to document in a computer-based claim log all outgoing and incoming communications and respond to them within a reasonable time period thereafter until the claim is closed. AIU orally communicates these expectations to its adjusters and managers. On 11/6/99, Douglas F. Kosloske (Kosloske), of Portland, Oregon, was injured while driving his automobile, and his automobile damaged, when Kosloske was hit by another automobile driven by Rochelle A. Frets (Frets). Frets was insured by AIU under policy number 6680824. On 11/8/99, Kosloske filed with AIU a claim for bodily injury and property damage. AIU opened the claim by assigning number 99127895 to the claim, and assigning Maureen Plemenos to investigate and settle the claim. From 11/8/99 to 11/26/99, AIU began investigating the claim. However, from 11/27/99 to 1/31/00, a period of 65 days, AIU did not continue investigating or reviewing the claim. On 2/1/00, AIU reviewed the claim file. However, from 2/2/00 to 7/18/00, a period of 167 days, AIU did not continue investigating or reviewing the claim, except on 5/26/00 AIU opened a subrogation file, on 5/30/99 AIU adjusted various reserves, and on 7/14/00 reviewed the adequacy of the reserves and noted that AIU's investigation of Kosloske's claim was pending. From 7/19/00 to 7/24/00, AIU resumed its investigation. However, from 7/25/00 to 2/5/01, a period of 195 days, AIU did not continue investigating or reviewing the claim. From 2/6/01 to 8/7/01, AIU resumed and eventually completed its investigation. AIU settled and closed Kosloske's claim for property damage on 3/5/01 which was 483 days after beginning its investigation on 11/8/99. Thus, AIU neglected to investigate Kosloske's claim for property damage for a total of 427 of the 483 days, or 88 percent of the time that this portion of the claim was pending. AIU settled and closed Kosloske's claim for bodily injury on 8/7/01 which was 683 days after beginning its investigation on 11/8/99. Thus, AIU neglected to investigate Kosloske's claim for bodily injury for a total of 427 of the 683 days, or 62 percent of the time that this portion of the claim was pending.

Failing to Promptly Acknowledge or Act Upon Communications Related to Claims

2. AIU violated ORS 746.230(1)(b) in 17 instances by engaging in the following conduct:

a. Between 12/29/99 to 10/23/00, on 11 occasions, State Farm Mutual Automobile Insurance Company (State Farm), on behalf of Kosloske, its insured, called and left a recorded telephone message for AIU to call State Farm regarding Kosloske's third party claim to AIU. AIU did not return State Farm's calls or otherwise communicate with State Farm in response to the calls. The dates of the calls are: 12/29/99, 1/27/00, 3/13/00, 5/18/00, 6/7/00, 7/19/00, 7/20/00, 9/26/00, 10/10/00, 10/23/00.

b. On 1/6/00, State Farm mailed to AIU a subrogation notice regarding Kosloske's claim. On 1/10/00, AIU received the notice. AIU did not respond to State Farm regarding the notice.

c. Sometime between 11/26/99 to 5/19/00, on at least two occasions, Kosloske called and left a message for AIU to return his call regarding his claim. AIU did not return Kosloske's calls.

d. On 5/19/00, Kosloske mailed to AIU some medical records relating to his bodily injuries that he suffered in the accident. Kosloske handwrote on the front of the documents a note stating "Moreen [referring to Maureen Plemenos, AIU's adjuster], I have left messages 2-3 times for someone to call regarding claim #99127895. I have not [received] any reply. I am going to call the Insurance Commissioner if I can't get some response." On 5/23/00, AIU received the records. AIU did not call Kosloske until 7/19/00, 57 days later, and did not acknowledge receiving the records until on 7/20/00, 58 days later, when AIU sent Kosloske a letter dated 7/19/00.

d. On 6/6/00 or 6/8/00, Kosloske called and left a recorded telephone message for AIU to return his call regarding his claim. AIU did not return Kosloske's call.

Action

Pursuant to ORS 731.988, AIU shall pay a civil penalty of \$10,000. The payment shall be made in the form of a check payable to the "Department of Consumer and Business Services" for the full amount due. The payment shall be delivered or mailed to the Insurance Division at 350 Winter Street NE, Room 440, Salem, OR 97301-3883. The payment shall be received by the Insurance Division by the date of the Final Order.

Dated September 11, 2002

/s/ John G. Colona
[Signature of Representative]

John G. Colona
[Printed Name of Representative]

Vice President
[Printed Title of Representative]

AIU Insurance Company

FINAL ORDER

The director adopts and incorporates herein by this reference the above Stipulation as the director's final decision in this proceeding.

Dated October 1, 2002

/s/ Mary C. Neidig
Mary C. Neidig
Director
Department of Consumer and Business Services

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