**MINUTES OF THE**

**MBASIA COVERAGE & CLAIMS COMMITTEE MEETING**

**THURSDAY, July 12, 2012 AT 3:00 PM**

**PRIMARY TELECONFERENCE LOCATION:**

**SAN FRANCISCO, CA**

**MEMBERS PRESENT**

Jaime Goldstein, City of Capitola

Robert Galvan, City of Hollister

Rene Mendez, City of Gonzales

Michael Powers, City of King City

**MEMBERS ABSENT**

**GUESTS & CONSULTANTS**

Lisa Murphy, City of Capitola

Steve Matarazzo, City of Sand City

Doug Yount, City of Marina

Conor Boughey, Alliant Insurance Services, Inc.

Michael Simmons, Alliant Insurance Services, Inc.

Monica Sandbergen, Alliant Insurance Services, Inc.

**A. CALL TO ORDER**

President, Rene Mendez called the meeting to order at 3:04 p.m.

**B. CONSENT CALENDAR**

**B1. Approval of Minutes – May 22, 2012 Coverage and Claims Committee Meeting**

A motion was made to approve the minutes.

**MOTION**: Lisa Murphy **SECOND**: Robert Galvan **MOTION CARRIED**

**C. PUBLIC COMMENTS**

There were no public comments.

**D. COVERAGE AND CLAIMS COMMITTEE**

**D1. Appeal Process for Denied Claims Due to Late Reporting**

Conor Boughey advised that the Board discussed the situation with the Del rey Oaks – late claim. It was decided that alliant would draft a policy & procedure. Alliant talked with Marilyn Kelley in our office – has a long history with JPA’s. She drafted, and then Mike and Conor revised. Conor and Mike reviewed the MOC to make sure the P&P follows it. On the redraft, yellow box was inserted – MBASIA not responsible for any

ERMA just started a new policy – if claim is reported late, they will apply a 25% penalty – very high for MBASIA – alliant is discussing with ERMA on this issue.

Mike Simmons advised that when ERMA started discussing the doubling the SIR penalty, Mike advised them that this would be significant for MBASIA. Members are in ERMA as an individual member. MBASIA is the only insurance pool in MBASIA. The penalty will impact not the member, but MBASIA as a pool. Alliant is asking ERMA to readdress this issue, and is asking them to consider a lower penalty, such as $75,000. MBASIA’s MOC has to include a paragraph stating that MBASIA is not responsible for a penalty for late reporting to ERMA.

Conor Boughey advised that the policy and procedure is written now with Suggested guidelines should the wording be for minimum guidelines>

Robert Galvan asked what timeline was included in Dan’s email – it was less than 24

Mike Simmons advised that EPL claims are types of claims that people aren’t used to handling well, and they are slipping through the cracks. Based on this, mike advised that the penalty should be a “minimum” penalty, vs. a suggested penalty.

Robert Galvan asked if the P&P is tailored towards Del Rey Oaks, or will the P&P will be used

Jaime Goldstein advised that 2 years might be too long of a claim reporting period.

Jaime Goldstein asked about what other penalty is being seen by other JPA’s. Mike advised that ERMA’s penalty is harsh/unrealistic – it may be appropriate with someone with a $25,000 deductible. ERMA has had so many requests for late reported claims, that they are cracking down hard. Most pools don’t insure EPL. JPRMA – 200 cities insured with them. Excess pool with a minimum 250k SIR. JPRMA have decided that they won’t pay any defense costs that were accumulated prior to reporting after 30 days. No other pools have a penalty system. They have a policy that denies a claim if reported late. Every pool has an appeal process.

Mike advised that the committee denied DRO claim, which started the appeal process. Mike advised that MBASIA does not have a set penalty process – ERMA and CJPRMA do. Mike advised that if MBASIA does not adopt a P&P, it’s highly recommended that the “notwithstanding” wording is inserted in the MOC. Mike recommends either MBASIA modifying their MOC, drop their SIR in ERMA, or leave ERMA altogether.

Rene Mendez expressed that 2 years is too long. 1 year is more reasonable.

The committee members all came to the consensus that the 2 year reporting timeline, is too long.

Mike reminded the members of insurance law – MBASIA doesn’t fall under insurance law.

Mike said MBASIA’s policy would want to be consistent along all lines of coverage. Conor suggested checking with Ken to make sure claims aren’t being reported after 30 days.

Mike suggested rather than a percentage penalty, use a minimum flat penalty.

Jaime Goldstein liked Mike’s minimum flat penalty, and also doing a private forensic investigation at the expense of the member to investigate why the claim was reported late.

Conor asked the members if MBASIA should have a separate P&P, or leave the policy as is and review the claims on an individual basis. Jaime advised that MBASIA should have a P&P to establish a protocol.

Conor – MBASIA 30-60 days late 10k penalty

60-6 months – 50K penalty

Mike advised that the minimums don’t grant coverage – the member would still go through an appeal process.

Jaime Goldstein advised that wording should be added to the above that the late reporting claimant should bear the cost of an independent investigation –

The members advised that they would like to have a call before the Board Meeting

Rene – after lunch, or morning

Jaime – free all day

Doug – in afternoon

Robert – afternoon

July 18th at 1:00 p.m. – next committee meeting

Meeting reconvened on Thursday, July 19th at 9:39 a.m.

Mike Simmons advised that the P&P was restructured. MBASIA has a critical appeal process in the Governing Documents – a member appeals to the board and board decision’s is final. Mike doesn’t want to lose the credibility of this process and wants to make sure that MBASIA follows an appeal process for late reported claims. The 2nd agenda modifying the MOC will be drafted shortly.

In the P&P, it was added that “P&P does not modify the MBASIA MOC defined Appeal Process.” Also added is the underlined section in the P&P. The second page – Alliant chose these numbers, but can be modified. By putting in “after 2 years the claim is not covered”, that modifies the MOC and the appeal process. The appeal process and the penalty process must be kept separate. Are these the right minimums, and are these minimums or recommendations? If they are minimums, they can’t be changed. They can be changed to recommendations.

Jaime Goldstein advised that we are on the right track – he thinks 6 different penalty levels are too many.

Robert Galvan – stated that it’s still problematic to allow claims to be reported 2 years late. Mike advised that the P&P can’t state “and after 2 years, MBASIA won’t pay the claim”. If MBASIA has a policy that violates the governing document, he worries that under contract law, the court may decide to move towards litigation because of the conflicting documents.

Rene advised that the P&P has too many dates.

Amend the MOC for a 2 tier process – a claim reported 1 year late can be approved by the board, a claim reported 2 years late can be approved by the board but at a higher standard (2/3rd vote by the board).

3 layers of penalties – 10K, 25K and 100K.

MOC will be modified with 2/3rd vote of the quorum

B – 180 days at 50k

C – 365 days at

Mikeasked the Committee if they have a recommendation to the Board on Del Rey Oaks Claim? Jaime asked how much forensic investigation has been done on the Del Rey Oaks claim? Mike advised that he will check with Ken to see how much investigation was done, and if not, then will advise to start an investigation.

**E. CORRESPONDENCE/INFORMATION**

**F. GENERAL RISK MANAGEMENT ISSUES**

**ADJOURNMENT**