

REPORT OF EXAMINATION
OF THE
COMMERCE WEST INSURANCE COMPANY
AS OF
DECEMBER 31, 2008

Participating State
and Zone:

California

FILED: May 27, 2010

TABLE OF CONTENTS

	<u>PAGE</u>
SCOPE OF EXAMINATION.....	1
COMPANY HISTORY	2
MANAGEMENT AND CONTROL:	2
Amended and Restated Management Cost Allocation Agreement.....	4
Amended and Restated Tax Allocation Agreement.....	5
TERRITORY AND PLAN OF OPERATION.....	5
REINSURANCE:	6
Amended and Restated Reinsurance Pooling Agreement.....	6
Assumed.....	6
Ceded	7
FINANCIAL STATEMENTS:	7
Statement of Financial Condition as of December 31, 2008	8
Underwriting and Investment Exhibit for the Year Ended December 31, 2008.....	9
Reconciliation of Surplus as Regards Policyholders from December 31, 2003 through December 31, 2008.....	10
COMMENTS ON FINANCIAL STATEMENT ITEMS:.....	11
Losses and Loss Adjustment Expenses.....	11
Taxes, Licenses and Fees	11
SUMMARY OF COMMENTS AND RECOMMENDATIONS:.....	12
Current Report of Examination.....	12
Previous Report of Examination.....	12
ACKNOWLEDGEMENT	13

San Francisco, California
April 30, 2010

Honorable Alfred W. Gross
Chairman of the NAIC Financial
Condition Subcommittee
Commissioner of Insurance
Virginia Bureau of Insurance
Richmond, Virginia

Honorable Christine Urias
Secretary, Zone IV - Western
Director of Insurance
Arizona Department of Insurance
Phoenix, Arizona

Honorable Steve Poizner
Insurance Commissioner
California Department of Insurance
Sacramento, California

Dear Chairman, Secretary and Commissioner:

Pursuant to your instructions, an examination was made of the

COMMERCE WEST INSURANCE COMPANY

(hereinafter also referred to as the Company) at its statutory home office and main administrative office, located at 6130 Stoneridge Mall Road, Suite 400, Pleasanton, California 94588.

SCOPE OF EXAMINATION

The previous examination of the Company was made as of December 31, 2003. This examination covers the period from January 1, 2004 through December 31, 2008. The examination was made pursuant to the National Association of Insurance Commissioners' plan of examination. The examination was conducted concurrently with the examinations of the Company's affiliates,

Commerce Insurance Company, Citation Insurance Company American Commerce Insurance Company and State-Wide Insurance Company. The examination included a review of the Company's practices and procedures, an examination of management records, tests and analyses of detailed transactions within the examination period, and an evaluation of the assets and a determination of liabilities as of December 31, 2008, as deemed necessary under the circumstances.

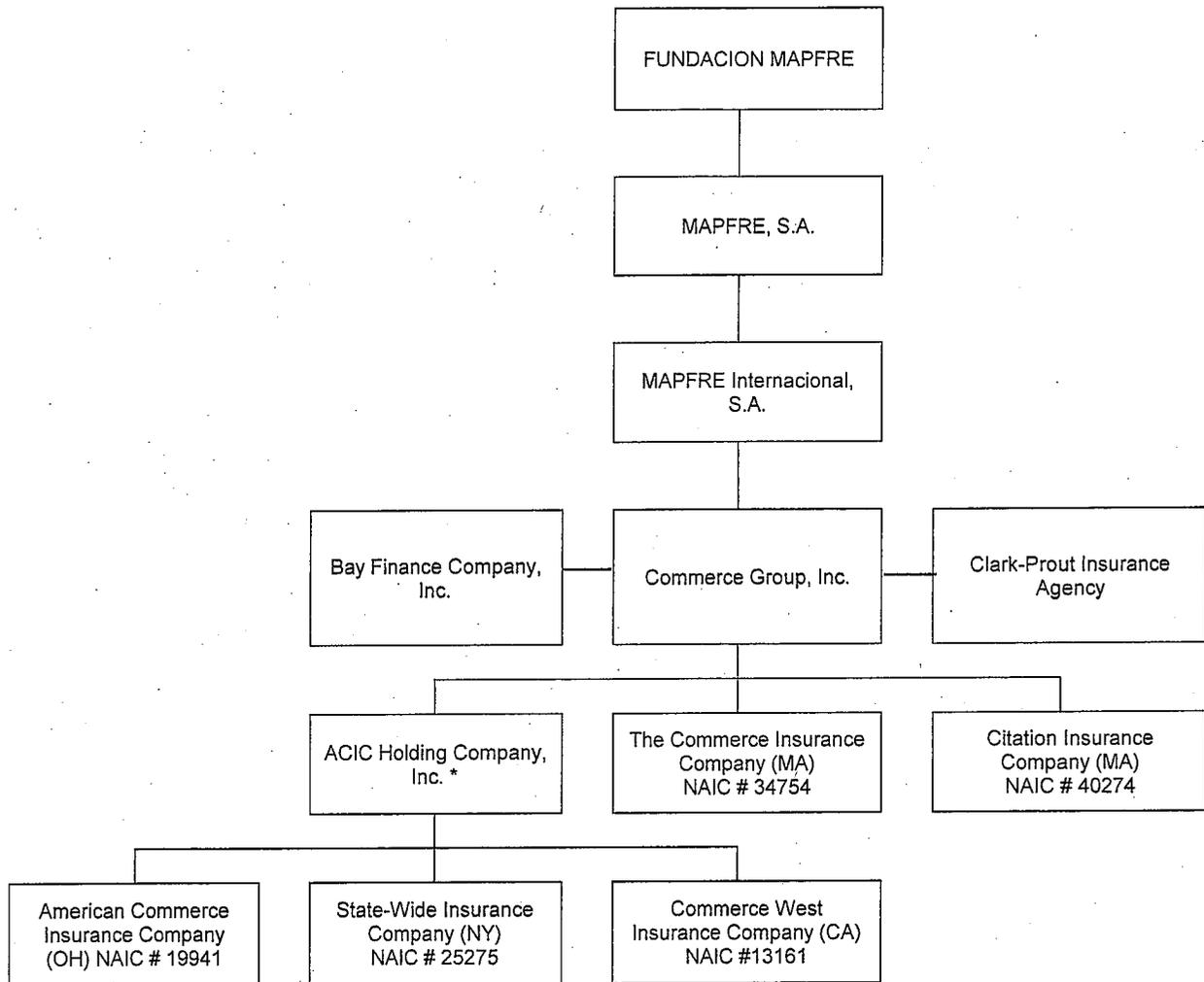
In addition to those items specifically commented upon in this report, other phases of the Company's operations were reviewed including the following areas that require no further comment: corporate records; fidelity bonds and other insurance; officers', employees and agents' welfare and pension plans; business in force by states; growth of company; loss experience; accounts and records; and sales and advertising.

COMPANY HISTORY

On October 30, 2007, the Commerce Group, Inc. (CGI), entered into a merger agreement with MAPFRE, S.A. (MAPFRE) whereby CGI became a wholly-owned subsidiary of MAPFRE. The merger was completed on June 4, 2008 and MAPFRE became the ultimate parent of CGI and its affiliates.

MANAGEMENT AND CONTROL

The Company is a member of the Commerce Group, Inc., based in Massachusetts and the ultimate controlling entity is MAPFRE. Five property-casualty companies are in the group, with the Company being the only one licensed in California. The following organizational chart depicts the relationship of the companies within the holding company system:



* Note: 5% of ACIC Holding Company, Inc. is owned by AAA Southern New England.

Management of the Company is vested in a two-member board of directors that are elected annually.

A listing of the members of the board and principal officers serving on December 31, 2008 follows:

Directors

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Gerald Fels Webster, Massachusetts	Chief Executive Officer Commerce Group, Inc.
Jaime Tamayo Weston, Massachusetts	President & Chief Operating Officer Commerce Group, Inc.

Principal Officers

<u>Name</u>	<u>Title</u>
Gerald Fels	Chairman of the Board
Jaime Tamayo	President and Chief Executive Officer
Robert E. McKenna	Treasurer and Vice President
Daniel P. Olohan	Secretary and General Counsel
Randall V. Becker	Chief Financial Officer and Executive Vice President
Michael J. Berryessa	Vice President
John E. Donahue	Chief Operating Officer
Andrew J. Goldsmith	Vice President
Albert R. Harris	Senior Vice President
John W. Hawie	Chief Investment Officer and Senior Vice President
Debra A. Mann	Senior Vice President
John M. Meciak	Assistant Treasurer
Cathleen M. Moynihan	Senior Vice President
Arthur J. Remillard III	Executive Vice President

Amended and Restated Management Cost Allocation Agreement

The Company and its affiliates are participants in a management cost allocation agreement, effective December 22, 2006, that provides the following services to the members of the Group: quarterly review and analysis of company performance, budgeting, tax advice, support, calculation and filing, legal advice and support, insurance consulting, review of corporate contracts, SEC filings,

operational services, investment management services and investment recordkeeping services. The agreement states that non-investment related services shall be reimbursed at the actual cost borne by the party providing the services. Investment related services are reimbursed using an "Investment Services Formula" that is calculated as the product of the number of basis points multiplied by the quarter end balance of investments and cash divided by four. The reimbursement is limited to the actual costs and expenses incurred by the party providing the services. The agreement was approved by the California Department of Insurance (CDI) on April 13, 2007.

Amended and Restated Tax Allocation Agreement

The Company is party to a tax allocation agreement between The Commerce Group, Inc., and its affiliates, effective April 2, 2007. Under the agreement, tax liability and credits are to be apportioned on a separate return basis and the settlements between the companies are to be settled within 30 days of filing the return. The agreement was submitted to the CDI and approved on April 13, 2007.

TERRITORY AND PLAN OF OPERATION

As of December 31, 2008, the Company was licensed to transact insurance in the states of Arizona, California, Colorado, Nevada, Oregon, Utah and Washington. Of the Company's 2008 direct premiums of \$83 million, 89.6% was written in California, 6.3% was written in Arizona and 4.1% was written in Oregon. The Company primarily writes private passenger auto liability and physical damage on a preferred basis, with non-standard and commercial auto representing a smaller, but growing segment. The Company also wrote a small amount of general liability coverage on gardeners under the other liability line. The lines that the Company is licensed to write in California are similar to the types of business written by the pool.

Business is written through approximately 2,000 independent agents and brokers in Arizona, California, and Oregon.

REINSURANCE

Amended and Restated Reinsurance Pooling Agreement

The Company is a participant in an intercompany reinsurance pooling agreement whereby the Company cedes 100% of its premiums written, unearned premium, losses paid, reserves for losses, loss adjustment expenses, reserves for loss adjustment expenses and underwriting expenses to the lead company, Commerce Insurance Company (Commerce). Commerce then applies external reinsurance and retro-cedes a prorated amount to each company based on the following pooling percentages:

Commerce Insurance Company	76.2%
Citation Insurance Company	8.9%
American Commerce Insurance Company	8.3%
Commerce West Insurance Company	3.8%
State-Wide Insurance Company	<u>2.8%</u>
Total	<u>100%</u>

The agreement was filed with the California Department of Insurance and was approved on June 13, 2008.

Assumed

The Company assumed no reinsurance during the examination period other than from the pooling agreement above.

Ceded

The Company did not cede any reinsurance during the examination period other than from the pooling agreement detailed above.

FINANCIAL STATEMENTS

The financial statements prepared for this examination report include:

Statement of Financial Condition as of December 31, 2008

Underwriting and Investment Exhibit for the Year Ended December 31, 2008

Reconciliation of Surplus as Regards Policyholders from December 31, 2003
through December 31, 2008

Statement of Financial Condition
as of December 31, 2008

<u>Assets</u>	<u>Ledger and Nonledger Assets</u>	<u>Nonadmitted Assets</u>	<u>Net Admitted Assets</u>	<u>Notes</u>
Bonds	\$ 88,959,124	\$	\$ 88,959,124	
Preferred stocks	12,192,573		12,192,573	
Cash and short-term investments	17,562,891		17,562,891	
Investment income due and accrued	1,032,957		1,032,957	
Premiums and considerations:				
Uncollected premiums and agents' balances in the course of collection	10,643,872	410,780	10,233,092	
Deferred premiums, agents' balances and installments booked but deferred and not yet due	10,692,892		10,692,892	
Reinsurance:				
Amounts recoverable from reinsurers	12,289,756		12,289,756	
Other amounts receivable under reinsurance contracts	9,386,696		9,386,696	
Net deferred tax asset	8,497,475	4,844,635	3,652,840	
Electronic data processing equipment and software	265,295	141,126	124,169	
Furniture and equipment	240,613	240,613	0	
Aggregate write-ins for other than invested assets	<u>76,269</u>	<u>23,145</u>	<u>53,124</u>	
Total assets	<u>\$171,840,413</u>	<u>\$ 5,660,299</u>	<u>\$166,180,114</u>	
 <u>Liabilities, Surplus and Other Funds</u>				
Losses			\$ 25,703,774	(1)
Reinsurance payable on paid losses and loss adjustment expenses			11,027,932	
Loss adjustment expenses			5,730,245	(1)
Commissions payable, contingent commissions and other similar charges			2,888,106	
Other expenses			1,798,194	
Taxes, licenses and fees			544,870	(2)
Current federal and foreign income taxes			3,154,235	
Unearned premiums			30,317,503	
Advance premium			444,803	
Ceded reinsurance premiums payable			17,651,624	
Payable to parent, subsidiaries and affiliates			3,468,141	
Aggregate write-ins for liabilities			<u>313,978</u>	
Total liabilities			103,043,405	
Common capital stock		\$ 3,333,350		
Gross paid-in and contributed surplus		10,480,965		
Unassigned funds (surplus)		<u>49,322,394</u>		
Surplus as regards policyholders			<u>63,136,709</u>	
Total liabilities, surplus and other funds			<u>\$166,180,114</u>	

Underwriting and Investment Exhibit
for the Year Ended December 31, 2008

Statement of Income

Underwriting Income

Premiums earned		\$65,584,085
Deductions:		
Losses incurred	\$36,923,461	
Loss adjustment expenses incurred	7,704,805	
Other underwriting expenses incurred	<u>18,335,224</u>	
Total underwriting deductions		<u>62,963,490</u>
Net underwriting gain		2,620,595

Investment Income

Net investment income earned	\$ 6,191,541	
Net realized capital losses	<u>(9,140,157)</u>	
Net investment loss		(2,948,616)

Other Income

Finance and service charges not included in premiums	\$2,439,505	
Aggregate write-ins for miscellaneous income	<u>8,626</u>	
Total other income		<u>2,448,131</u>
Net income before federal income taxes		2,120,110
Federal income taxes incurred		<u>3,384,505</u>
Net loss		<u>\$ (1,264,395)</u>

Capital and Surplus Account

Surplus as regards policyholders, December 31, 2007		\$66,077,656
Net loss	\$ (1,264,395)	
Change in net unrealized capital losses	(470,715)	
Change in net deferred income tax	3,114,256	
Change in nonadmitted assets	(4,234,893)	
Aggregate write-ins for losses in surplus	<u>(85,200)</u>	
Change in surplus as regards policyholders for the year		<u>(2,940,947)</u>
Surplus as regards policyholders, December 31, 2008		<u>\$63,136,709</u>

Reconciliation of Surplus as Regards Policyholders
from December 31, 2003 through December 31, 2008

Surplus as regards policyholders, December 31, 2003, per Examination			\$34,933,019
	<u>Gain in</u>	<u>Loss in</u>	
	<u>Surplus</u>	<u>Surplus</u>	
Net income	\$31,045,678	\$	
Change in net unrealized capital losses		2,721,805	
Change in net deferred income tax	5,434,316		
Change in nonadmitted assets		5,405,142	
Aggregate write-ins for losses in surplus	<u> </u>	<u>149,357</u>	
Total gains and losses in surplus	<u>\$36,479,994</u>	<u>\$ 8,276,304</u>	
Increase in surplus as regards policyholders			<u>28,203,690</u>
Surplus as regards policyholders, December 31, 2008, per Examination			<u>\$63,136,709</u>

COMMENTS ON FINANCIAL STATEMENT ITEMS

(1) Losses and Loss Adjustment Expenses

The Company's reserves for losses and loss adjustment expenses were reviewed by the Massachusetts Division of Insurance (MA DOI) at the pooled level and were found to be reasonably stated as of December 31, 2008. A California Department of Insurance casualty actuary reviewed the work performed by the MA DOI and concurred with their conclusion.

(2) Taxes, Licenses and Fees

California Insurance Code Section 1872.8(a) states, in part, that each insurer doing business in the State of California must pay an annual Vehicle Fraud Assessment Fee for each vehicle insured under an insurance policy it issues in California. The fee provides funding for the increased investigation and prosecution of fraudulent automobile insurance claims and automobile theft in the State of California.

It was noted that the Company was not in compliance with the California Code of Regulations Title 10, § 2698.62(d) that requires the Company to maintain an "Automobile Assessment File" that contains the vehicle identification number, policy number, and transaction date for every vehicle that had an insurance policy in-force. The Company did not include the transaction dates in its "Automobile Assessment File." It is recommended that the Company add the transaction dates to its "Automobile Assessment File" to comply.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

Current Report of Examination

Comments on Financial Statement Items – Taxes, licenses and fees (Page 11): It was noted that the Company was not in compliance with the California Code of Regulations Title 10, § 2698.62(d) that requires the Company to maintain an “Automobile Assessment File” that contains the vehicle identification number, policy number, and transaction date for every vehicle that had an insurance policy in-force. The Company did not include the transaction dates in its “Automobile Assessment File.” It is recommended that the Company add the transaction dates to its “Automobile Assessment File” to comply.

Previous Report of Examination

Management and Control – Cost Sharing Arrangement (Page 4): It was recommended that a written management or service agreement be made to support the allocation arrangement between the Company and its affiliate, American Commerce Insurance Company. The Company created an agreement to support the allocation arrangement and is now in compliance.

Management and Control – Tax Allocation Agreement (Page 4): It was recommended that the tax allocation agreement be revised and that the revised agreement be submitted to the California Department of Insurance for approval. The Company submitted a revised agreement and is now in compliance.

Reinsurance (Page 6): It was recommended the Company amend its reinsurance agreements to comply with California laws and the NAIC Statements of Statutory Accounting Principles. This recommendation no longer applies because the Company has entered into a reinsurance pooling agreement.

Accounts and Records (Page 7): It was recommended that the Company continue to work towards improving the weaknesses noted in its information systems controls. The Company's information systems controls were reviewed and no issues were noted.

ACKNOWLEDGEMENT

The courtesy and cooperation extended by the Company's officers and employees during the course of this examination are hereby acknowledged.

Respectfully submitted,

/s/

Jennifer Whitehurst, CFE
Examiner-In-Charge
Associate Insurance Examiner
Department of Insurance
State of California