

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF BUSINESS REGULATION  
JOHN O. PASTORE COMPLEX  
1511 PONTIAC AVENUE  
CRANSTON, RHODE ISLAND 02920**

**IN THE MATTER OF:**

**Mitchell International, Inc. and it's Workcenter Total Loss Product's  
Application Under R.I. Gen. Laws § 27-9.1-4(25) and Insurance  
Regulation 73, Section 8(A)(2)**

**ORDER APPOINTING HEARING OFFICER AND  
NOTICE OF SOLICITATION OF PUBLIC COMMENT  
AND HEARING**

The Director ("Director") of the Rhode Island Department of Business Regulation ("Department") issues this Order to provide notice to the public and to obtain input from any interested persons or parties ("Interested Parties") regarding whether Mitchell International, Inc.'s WorkCenter Total Loss Product ("Mitchells" or "Applicant") should be qualified as a nationally recognized compilation of retail values commonly used by the automotive industry ("Recognized Compilation"). The Director issues this Order pursuant to R.I. Gen. Laws § 27-9.1-4(25), Insurance Regulation 73, Section 8(A)(2)(b), R.I. Gen. Laws §§ 42-14-1 *et seq.* and 42-35-1 *et seq.*, and 230-RICR-100-00-2 (formerly Central Management Regulation 2) entitled *Rules of Procedure for Administrative Hearings*. Attached to this Order as Exhibit 1 is the Application filed by Mitchells.

At the conclusion of the administrative process, were the Director to issue an Order qualifying Mitchells as a Recognized Compilation, insurers in Rhode Island would be able to utilize information concerning vehicle valuations provided by Mitchells' in determining the value of a total loss vehicle. Pursuant to Insurance Bulletin 2014-2 Total Loss Valuation Services, the only two

Recognized Compilations currently are National Automobile Dealers Association and Kelly Blue Book.

The Director hereby appoints Catherine R. Warren, Esq. as Hearing Officer pursuant to R.I. Gen. Laws § 42-6-8 for the purpose of holding an evidentiary hearing on the whether the Application is warranted and to make a recommendation to the Director as to whether Mitchells qualifies under the statute and regulation as a Recognized Compilation.

The Applicant and any Interested Parties may wish to submit information regarding whether Mitchells should be a Recognized Compilation in writing prior to the Hearing, orally or in writing at the Hearing, or as otherwise determined by the Hearing Officer. Interested Parties need not file an Answer, a request for hearing or any other formal pleading. Any Interested Party may submit their written comments on the Application either by delivering the same to

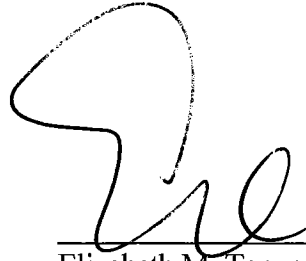
Catherine.Warren@doa.ri.gov, or to:

Department of Administration;  
ATTN: Catherine Warren  
One Capitol Hill, 4<sup>th</sup> Floor  
Providence, RI 02908

Pursuant to 230-RICR-100-00-2, it is the sole responsibility of the Applicant or its representative and any interested parties or their representatives to present their case to the Hearing Officer. Such proceedings shall be conducted in conformance with 230-RICR-10-00-2 and R.I. Gen. Laws § 42-35-1 *et seq.* A pre-hearing conference in this matter shall be held on March 12, 2018 at 9:30 a.m.

~~ALL PARTIES ARE HEREBY ADVISED THAT THEY HAVE THE RIGHT TO BE REPRESENTED AT THE PREHEARING CONFERENCE BY LEGAL COUNSEL OF THEIR OWN CHOOSING. THE DEPARTMENT WILL NOT PROVIDE LEGAL COUNSEL TO ANY PARTY.~~

Entered this 2 day of February 2018.



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Elizabeth M. Tanner, Director

If you have any questions regarding the scheduling of the matter in this Order, please contact Catherine Warren, Esq. at [catherine.warren@doa.ri.gov](mailto:catherine.warren@doa.ri.gov). Please refrain from contacting the Hearing Officer on any substantive matters related to the subject of the Hearing unless all parties and interested parties are notified of and participate in the communication.

All are welcome at the Rhode Island Department of Business Regulation ("DBR"). If any reasonable accommodation is needed to ensure equal access, service or participation, please contact DBR at 401-462-9551, RI Relay at 7-1-1, or email [dbr.dirofficeinq@dbr.state.ri.us](mailto:dbr.dirofficeinq@dbr.state.ri.us) at least three (3) business days prior to the hearing.

**CERTIFICATION**

I hereby certify that on this 28<sup>th</sup> day of February, 2018, a copy of this Order was sent by first class mail postage prepaid or by email to the following:

Mitchell International, Inc. Debbie Day, EVP and General Manager 6220 Greenwich Drive San Diego, CA 92122 Iris Mitrakos, Assistant General Counsel <u>Iris.Mitrakos@mitchell.com</u>	Dentons US LLP Bill Gantz <u>Bill.Gantz@dentons.com</u> Corinne Carr <u>Corinne.Carr@dentons.com</u>
Philadelphia Insurance Companies Sam Garro, VP Compliance Dept. One Bala Plaza, Suite 100 Bala Cynwyd, PA 19004	Audatex Diane Klund, Director Reg. & Gov't Affairs 15030 Avenue of Science, Suite 100 San Diego, CA 92128
Auto Bid LLC. 7930 Santa Fe. Drive Ste. 201 Overland Park, Kansas 66204	National Automobile Dealers Assoc. - NADA 8400 Westpark Drive, Tysons, VA 22102
Kelley Blue Book Co., Inc. - KBB 195 Technology Drive Irvine, CA 92618	CCC Information Services Inc. Jennifer Yengoyan, Senior Counsel <u>JYengoyan@cccis.com</u>
Auto Body Assoc. of RI – ABARI Petrarca & Petrarca Law Offices Peter Petrarca - <u>Peter@petrarcalaw.com</u> Jina Petrarca - <u>Jina@petrarcalaw.com</u>	Price Digests Darren Kyle II, Sales Coordinator <u>Darren.Kyle@penton.com</u> <u>Brian.Dewey@penton.com</u>
Partridge Snow and Hahn LLP Melissa Darigan <u>MED@PSH.com</u>	Vehicle Valuation Services, Inc. Nick Gawthrop <u>NGawthrop@vvs.com</u>
American Insurance Association - AIA Allison Cooper, Vice President <u>acooper@aiadc.org</u>	Property Casualty Insurers Assoc. of America Francis O'Brien, VP <u>Frank.Obrien@pciaa.net</u>
Independent Insurance Agents of RI - IIARI Ernie Shaghalian - <u>AlpineIns@aol.com</u> Mark Male - <u>Mark.Male@iiari.com</u>	National Assoc. of Mutual Insurance Companies - NAMIC Cate Paolino - <u>CPaolino@namic.org</u>
Lauren Wilkins Langlois, Wilkins, Furtado & Metcalf, P.C. <u>LWilkins@lwfmlaw.com</u>	Allstate Insurance Company Timothy Knapp, Regional Counsel <u>Tkna3@allstate.com</u>

by electronic mail to following at the Department of Business Regulation,  
Elizabeth Kelleher Dwyer, Esq., Deputy Director; Paula Pallozzi, Associate Director; and  
Matthew Gendron, Esq.; and to Catherine.Warren@doa.ri.gov.

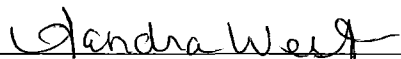


EXHIBIT 1



Mitchell International, Inc.  
6220 Greenwich Drive  
San Diego, California 92122  
358.368.7000 | 800.238.9111  
mitchell.com

February 23, 2018

*via email*

Elizabeth Dwyer  
Deputy Director and Superintendent of Insurance  
Department of Business Regulations  
Insurance Regulation Division  
1511 Pontiac Avenue  
Cranston, RI 02920

Dear Ms. Dwyer:

This letter is sent pursuant to Regulation 73 which requires Mitchell International, Inc. ("Mitchell") to request qualification from the Rhode Island Department of Business Regulations (the "Department") for Mitchell's WorkCenter Total Loss product to be used to determine the "fair market value" of total loss vehicles in the state of Rhode Island. In relevant part, R.I. Gen. Laws §27-9.1-4(25) defines "fair market value" as "the retail value of a motor vehicle as set forth in a nationally recognized compilation of retail values commonly used by the automotive industry to establish values of motor vehicles." As demonstrated herein, Mitchell's WorkCenter Total Loss product is a resource that is recognized by the insurance and automobile industries, as well as state insurance regulators.

Like the National Automobile Dealers Association and Kelly Blue Book publications, Mitchell's WorkCenter Total Loss product is a nationally recognized resource commonly used by the automotive industry, specifically the automobile insurance and automobile rental industries, to determine the fair market value of total loss vehicles. While we agree with the Department's interpretation in Insurance Bulletin 2014-2 that the term "automotive industry" certainly includes entities that actually sell automobile, we respectfully maintain that the scope of the term "automotive industry" as used in §27-9.1-4(25) is in fact much broader. The automobile insurance industry, for example, is responsible for establishing the values used for the purchase of new and replacement vehicles following a total loss. In this regard, the automobile insurance industry is a key part of the overall automotive industry and its valuations are connected to a material percentage (up to 20%) of overall vehicle purchases nationally. Approximately 60 automobile insurers currently use Mitchell's WorkCenter Total Loss product to help settle their total loss claims, including several of the top 20 insurers. Mitchell processes approximately one million total loss valuation reports for these clients annually. Mitchell's WorkCenter Total Loss customers also include representatives from the automobile rental industry. These national automobile rental companies commonly rely on Mitchell's WorkCenter Total Loss product to establish the fair market value of their total loss vehicles.

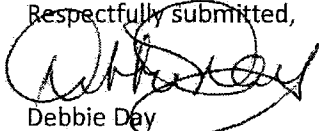
State insurance regulators across the country likewise recognize Mitchell's WorkCenter Total Loss as providing insurers, policyholders and the automotive industry, including insurers and policyholders with accurate, timely and statistically sound vehicle valuations. The product is used in some capacity in all fifty states, including the states other than Rhode Island that require that products used to value total loss vehicles in such state be reviewed and approved prior to their use. While we recognize that Rhode Island has enacted its own specific requirements, it warrants consideration that state insurance regulators in Connecticut, New Hampshire New Jersey, New York, Pennsylvania, West Virginia and Wyoming have each explicitly approved Mitchell's WorkCenter Total Loss product for use in their respective states.

Mitchell's WorkCenter Total Loss product was commercially released (the online equivalent of "published") in 2005. Mitchell has since become the nation's leading provider of property and casualty claims technology solutions - processing over 50 million transactions annually for over 300 automobile insurers and claims payers, and over 30,000 collision repair facilities. The WorkCenter Total Loss product is the result of collaboration between Mitchell and JD Power and Associates, a national authority on customer satisfaction and vehicle pricing. Exhibit A provides a description of the WorkCenter Total Loss methodology used to establish the fair market value of total loss vehicles.

Through contractual relationships with nationally recognized data sources, including AutoTrader.com, Cars.com, TrueCar, Vast and JD Power and Associates, Mitchell receives data feeds containing information on vehicles listed for sale and vehicles sold by licensed dealers throughout the United States. Approximately ninety-seven percent (97%) of the comparable vehicle records in the WorkCenter Total Loss application are directly derived from automobile dealer records, so all or nearly all of the comparable vehicles on an individual valuation report are such dealer vehicles. Mitchell also contracts with nationally recognized entities such as Manheim Auto Actions, the world's leading provider of vehicle remarketing services, to provide sold data and vehicle condition information. See Exhibit B for a sample list of data providers to the Work Center Total Loss application.

Please let us know if you have any questions regarding any of the above or require additional information. We look forward to having the opportunity to discuss this submission with the Department.

Respectfully submitted,



Debbie Day  
EVP and General Manager  
Mitchell APD Solutions

## EXHIBIT A

### **Overview of Mitchell's WorkCenter Total Loss Methodology**

#### **Step 1 - Locate Comparable Vehicles**

Locate vehicles similar to the loss vehicle in the same market area. WorkCenter Total Loss finds these vehicles in AutoTrader.com, Cars.com, Vast.com and directly from dealerships.

#### **Step 2 - Adjust Comparable Vehicles**

Make adjustments to the prices of the comparable vehicles. The comparable vehicles are identical to the loss vehicle except where adjustments are itemized. There are several types of comparable vehicle adjustments

- Projected Sold Adjustment - an adjustment to reflect consumer purchasing behavior (negotiating a different price than the listed price).
- Age of Ad Adjustment- an adjustment to the price of the comparable vehicle based on the relationship between the date of the advertisement and the date of the loss vehicle.
- Mileage Adjustment - an adjustment for differences in mileage between the comparable vehicle and the loss vehicle.
- Equipment- adjustments for differences in equipment between the comparable vehicle (e.g. equipment packages and options) and the loss vehicle.

#### **Step 3 - Calculate Base Vehicle Value**

The base vehicle value is calculated by averaging the adjusted prices of the comparable vehicles.

#### **Step 4 - Calculate Loss Vehicle Adjustments**

There are four types of loss vehicle adjustments:

- Condition Adjustment: Adjustments to account for the condition of the loss vehicle prior to the loss.
- Prior Damage Adjustment: Adjustments to account for any prior damage present on the loss vehicle prior to the loss.
- After Market Part Adjustment: Adjustments to account for any after-market parts present on the loss vehicle prior to the loss.
- Refurbishment Adjustment: Adjustments to account for any refurbishment performed on the loss vehicle prior to the loss.

#### **Step 5 - Calculate the Market Value**

The Market Value is calculated by applying the loss vehicle adjustments to the base value.

## EXHIBIT B

### Comparable Vehicle Data Sources – Available for Sale



AutoTrader.com is the Internet's leading auto classifieds marketplace and consumer information website. AutoTrader.com aggregates in a single location more than **2.8 million vehicle listings** from **40,000 dealers and 250,000 private owners**, which provide the largest selection of vehicles attracting more than 11 million qualified buyers each month.



Visited by more than **8 million car shoppers** each month, Cars.com is the most comprehensive destination for those looking to buy or sell a new or used car. Cars.com includes vehicle listings from more than **13,000 dealers** alongside nationwide classified advertising and private-party listings to offer the best selection of new and used cars online, as well as the content, tools and advice to support the shopping experience.

# Vast

Vast operates the largest publishing and analytics platform in automotive today and powers such large sites as AOL, Bing, Overstock.com and Yellow Pages. Vast maintains over **5.5 million daily vehicle listings** and its publishing network covers over 40 large sites which represents more than **15 million monthly car shoppers**.

# TRUECar

TrueCar, Inc. is an online automotive information and communications platform focused on creating a better car buying experience for dealers and consumers. TrueCar currently works with more than 4,000 dealerships nationwide and will facilitate over 250,000 new and used car sales in 2012. Some of the nation's largest and most well respected membership and service organizations rely on websites powered by TrueCar to help educate their members and customers who are in the automotive market.