

FINDINGS OF FACT

1
2 1. Respondents are authorized to transact property and
3 casualty insurance pursuant to Certificates of Authority issued
4 by the Director.

5 2. The Examiners were authorized by the ADOI to conduct a
6 market conduct examination of Respondents. The on-site
7 examination was concluded as of November 13, 1992 and a Report
8 of Examination was written.

9 3. The Examiners reviewed ten (10) notices of
10 cancellation for non-payment of premiums which were sent by
11 California Casualty to personal automobile insureds during the
12 time period covered by the Examination. In each of these,
13 Respondents failed to include provide notice of the insureds'
14 right to complain to the Director. On the basis of information
15 furnished the Examiners by California Casualty, Respondent
16 failed to provide notice of the insureds' right to complain to
17 the Director in all 4,051 notices of cancellation for
18 non-payment of personal automobile premiums issued during the
19 period covered by the Examination.

20 4. Of the 433 first party personal auto total loss claim
21 files reviewed, the Examiners found that Respondents had failed
22 to pay the full amount of applicable sales taxes and/or license
23 fees due on 180 first party automobile total loss claims, and
24 that a total of \$3,890.80 remained due to the claimants.

25 5. Respondent failed to include sufficient documentation
26 in its claim files to support deductions made to establish the
27 vehicles' actual cash value in 154 first party total loss claims
28 out of the 433 files reviewed. The claimants received

1 \$13,458.12 less than the claim files have documentation to
2 support.

3 In 122 of the 154 claims cited above, the appraisal was
4 performed by a staff appraiser of Respondents and a \$65
5 adjustment for detailing was shown in the appraisals without
6 adequate documentation of the need for detailing or the services
7 performed. The use of this adjustment resulted in a reduction
8 of the actual cash value of the vehicles.

9 6. Of the first party total loss claims cited in
10 Paragraphs 4 and 5, 284 claims were filed after July 15, 1986,
11 and not paid in full within thirty (30) days after the receipt
12 of acceptable proofs of loss which contained all information
13 necessary for claim adjudication. Respondents have not paid
14 interest to the claimants. California Casualty in good faith
15 believed it had paid all outstanding claims in their entirety so
16 no interest was intentionally withheld.

17 7. Respondents elected cash settlements in 39 first party
18 automobile total loss claims, but failed to document that they
19 determined the ACV of the subject vehicles using either the cost
20 of a comparable automobile or two or more dealer quotations.

21 8. Respondents failed to complete their investigation of
22 four (4) out of the 433 files reviewed for first party
23 automobile total loss claims within thirty (30) days after
24 notification of the claims and did not show that the
25 examinations could not reasonably have been completed during
26 that thirty (30) day period.

27 9. California Casualty failed to pay two (2) medical
28 bills submitted by the claimant of Claim #019927 under the

1 medical payments coverage. As a result, the claimant received
2 \$380.05 less than she should have received had her claim been
3 paid in full.

4 CONCLUSIONS OF LAW

5 1. By failing to include notice of the insured's right to
6 complain to the Director in its notices of personal auto policy
7 cancellation for non-payment of premiums, California Casualty
8 violated A.R.S. § 20-1632.01(B).

9 2. By failing to pay the full amount of sales taxes and
10 license fees required for the purchase of comparable automobiles
11 to first-party claimants in their settlement of first-party
12 automobile total loss claims, Respondents violated A.A.C.
13 R4-14-801(H)(1)(b) and A.R.S. § 20-461(A).

14 3. By failing to include sufficient documentation in its
15 claim files to support deductions made to establish vehicle ACV
16 on first party total loss claims, Respondents violated A.A.C.
17 R4-14-801(H)(1)(c) and (H)(6), and A.R.S. § 20-461(A)(1). As a
18 result of some of its staff appraisers making deductions of \$65
19 from ACV for "clean-up" and "detailing" on first party total
20 loss claims without adequate documentation of the need for
21 clean-up and detailing, resulting in a reduction of the amount
22 of these claim settlements, Respondents also failed to attempt
23 good faith settlement of the claims in violation of A.R.S. §
24 20-461(A)(6).

25 4. By failing to pay all first party claims within thirty
26 (30) days of the receipt of an acceptable proof of loss which
27 contained all information necessary for claim adjudication and
28 by failing to pay interest on the amount due from the date the

1 claim was received by the insurer, Respondents violated A.R.S. §
2 20-462(A).

3 5. By electing cash settlements without documenting that
4 the ACV was determined by using the cost of a comparable
5 automobile or two or more dealer quotes, and without documenting
6 any deviation from that methodology, Respondents violated A.A.C.
7 R4-14-801(H)(1)(b) and A.R.S. § 20-461(A).

8 6. Respondents violated A.A.C. R4-14-801(G) and A.R.S. §
9 20-461(A)(5) by failing to complete investigation of claims
10 within thirty (30) days after notification of the claims, where
11 Respondents did not show that investigation could not reasonably
12 be completed within thirty (30) days.

13 7. By failing to pay all bills for medical payments under
14 a claimant's medical payments coverage within thirty (30) days
15 of the receipt of an acceptable proof of loss which contained
16 all information necessary for claim adjudication and by failing
17 to pay interest on the amount due from the date the claim was
18 received by the insurer, California Casualty violated A.R.S. §
19 20-462(A).

20 ORDER

21 Respondents having admitted the jurisdiction of the
22 Director to enter the Order set forth herein, having waived the
23 Notice of Hearing, and having consented to the entry of the
24 Order set forth hereinafter, and there being no just reason for
25 delay:

26 **IT IS HEREBY ORDERED THAT:**

27 1. Respondents shall cease and desist from failing to
28 include a notice of the insured's right to complain to the

1 Director on all notices of cancellation for non-payment of
2 premium; from failing to pay the full amount of taxes and fees
3 due on first-party personal automobile claims; from failing to
4 support vehicle ACV in first-party automobile total loss claims
5 with documentation giving particulars of the automobiles'
6 condition or by documenting that the settlement amount is
7 determined by the value of comparable automobiles in the market
8 area or by utilizing two (2) dealer quotes; from failing to pay
9 interest on first-party claims not paid within thirty (30) days
10 after the receipt of acceptable proofs of loss which contain all
11 information necessary for claim adjudication; from failing to
12 complete the investigation of claims within thirty (30) days
13 after notification thereof, or documenting that the
14 investigation cannot reasonably be completed within that time;
15 from failing to settle medical payments claims for the full
16 amounts due to claimants; and from failing to attempt good faith
17 settlement of all claims filed.

18 2. Within thirty (30) days of this Order's filed date,
19 Respondents shall submit to the Director a written action plan
20 to ensure strict compliance with A.A.C. R4-14-801, and to
21 provide on-going training of their own claims adjusters,
22 appraisers and independent adjusters in all requirements of the
23 Rule including but not limited to notification of receipt of
24 claims, timely completion of claims investigation, calculation
25 of sales taxes and license fees due, determination of vehicle
26 ACV, and payment of interest on claims not paid in full within
27 thirty (30) days of receipt of acceptable proofs of loss which
28 contain all information necessary for claim adjudication.

1 3. Within thirty (30) days of the filed date of this
2 Order, Respondents shall file with the ADOI a notice of
3 cancellation for non-payment of premium which has been amended
4 to provide for notice of the insured's right to complain to the
5 Director within ten (10) days.

6 4. Respondents shall pay to the claimants listed in
7 Exhibit 5 of the Report taxes and/or license fees not paid on
8 first party total loss claims totalling \$3,890.80. Respondents
9 shall pay interest on unpaid amounts at the rate of ten percent
10 (10%) per annum calculated from the more recent of the date the
11 claim was received or July 16, 1986, to the date of payment. No
12 interest shall be required on those claims where partial payment
13 was made prior to July 15, 1986.

14 5. Respondents shall refund to the claimants listed in
15 Exhibit 6 of the Report amounts improperly deducted from ACV
16 totalling \$13,458.12, plus interest on these amounts at the rate
17 of ten percent (10%) per annum calculated from the more recent
18 of the date the claim was received by the insurer or July 16,
19 1986, to the date of repayment. Respondents shall also refund
20 to these claimants any sales taxes due on the additional amount.

21 6. The payments listed in Paragraphs 4 and 5 shall be
22 accompanied by letters to the insureds acceptable to the
23 Director. A list of payments, giving the name and address of
24 each party to whom refunds were made, the base amount of the
25 payment, the amount of interest paid, and the date of payment,
26 shall be provided to the ADOI when all payments have been made.

27 7. Respondents shall conduct a self-audit of all
28 first-party total losses closed from December 25, 1991 through

1 the filed date of this Order. The findings of this self-audit
2 shall be reported to the ADOI, and payments made to insureds,
3 pursuant to Paragraphs 4-6 above.

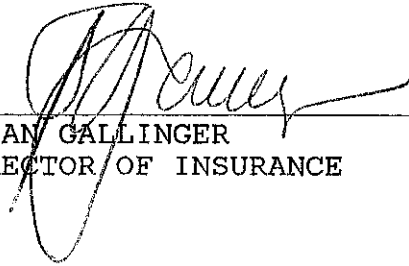
4 8. Respondents shall pay the claimant of Claim #019927
5 the amount of \$380.05 plus interest at the rate of ten percent
6 (10%) per annum, calculated from the date the claim was received
7 by the insurer to the date of payment.

8 9. The ADOI shall be permitted, through authorized
9 representatives, to verify Respondents have fully complied with
10 all requirements of this Order, and the Director may separately
11 order Respondents to comply.

12 10. Respondents shall pay a civil penalty of Fifteen
13 Thousand Dollars (\$15,000) to the Director for remission to the
14 State Treasurer for deposit in the State General Fund in
15 accordance with A.R.S. §20-220 (B). Said \$15,000 shall be
16 provided to the Hearing Division of the ADOI on or before August
17 13, 1993.

18 11. The November 13, 1992 Report of Examination, to
19 include any objections to the Report by Respondents, shall be
20 filed with the ADOI.

21
22 DATED at Phoenix, Arizona this 13th day of August, 1993.

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25 _____
26 SUSAN GALLINGER
27 DIRECTOR OF INSURANCE
28

CONSENT TO ORDER

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2
3 1. Respondents California Casualty Indemnity Exchange,
4 California Casualty Insurance Company, California Casualty & Fire
5 Insurance Company, and California Casualty General Insurance
6 Company have reviewed the foregoing Consent Order.

7 2. Respondents are aware of their right to a hearing at
8 which hearing Respondents may be represented by counsel, present
9 evidence and cross-examine witnesses. Respondents have irrevocably
10 waived their right to such public hearing and to any court appeals
11 relating thereto.

12 3. Respondents admit the jurisdiction of the Director of
13 Insurance, State of Arizona, and consent to the entry of this
14 Consent Order.

15 4. Respondents state that no promise of any kind or nature
16 whatsoever was made to them to induce them to enter into this
17 Consent Order and that they have entered into this Consent Order
18 voluntarily.

19 5. Respondents acknowledge that the acceptance of this Order
20 by the Director of Insurance, State of Arizona, is solely for the
21 purpose of settling this matter against them and does not preclude
22 any other agency or officer of this state or subdivision thereof
23 from instituting other civil or criminal proceedings as may be
24 appropriate now or in the future.

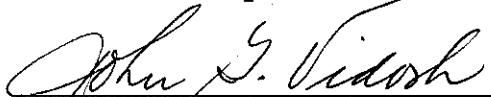
25 6. John G. Vidosh represents that he is the Executive Vice
26 President of California Casualty Management Company, a California
27 corporation, which is the Attorney in Fact for Respondent
28

1 California Casualty Indemnity Exchange, a reciprocal interinsurance
2 exchange, and that, as such, he is authorized by the California
3 Casualty Indemnity Exchange to enter into this Consent Order on its
4 behalf.

5 7. John G. Vidosh represents that he is the Executive Vice
6 President of Respondents California Casualty Insurance Company, a
7 California corporation; California Casualty & Fire Insurance
8 Company, a California corporation; and California Casualty General
9 Insurance Company, a California corporation, and that, as such, he
10 is authorized by them to enter into this Consent Order on their
11 behalf.

12
13 Date: August 5, 1993

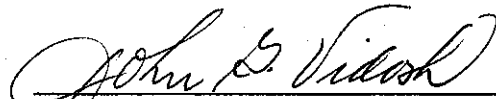
California Casualty Indemnity
Exchange, a reciprocal
interinsurance exchange
By: California Casualty
Management Company, a
California corporation
Its: Attorney in Fact.

16 

17 By: John G. Vidosh
18 Its: Executive Vice President

19
20
21
22 Date: August 5, 1993

California Casualty Insurance
Company, California Casualty &
Fire Insurance Company,
California Casualty General
Insurance Company, all
California corporations

23 

24 By: John G. Vidosh
25 Their: Executive Vice President
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27
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4 COPY of the foregoing mailed/delivered
this 13th day of August, 1993, to:

5 Sara Begley
6 Hearing Officer
7 *Deloris E. Williamson
Assistant Director
Rates & Regulations Division
8 Jay Rubin
Assistant Director
9 Consumer Affairs & Investigations Division
10 Gary Torticill
Assistant Director and Chief Financial Examiner
Corporate Affairs & Financial Division
11 DEPARTMENT OF INSURANCE
3030 N. 3rd Street, Suite 1100
12 Phoenix, AZ 85012

13 Thomas Keith Fraser
Assistant General Counsel
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P.O. Box M
15 San Mateo, California 94403-1298

16 John G. Vidosh
Executive Vice President
17 California Casualty Insurance Company, et al.
P.O. Box M
18 San Mateo, California 94403-1298

19 Chris Crawford
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