

1 policies issued and claims with dates of loss from January 1,
2 1990 through August 31, 1994.

3 3. The Examiners reviewed 10 of the 80 in-force Form 581
4 discovery bonds issued by CUMIS. Of the 10, Respondents applied
5 a credit to one bond (10%) which was less than those determined
6 using filed rates and rules.

7 4. The Examiners reviewed 9 commercial package policies
8 issued by CUMIS. Of the 9, CUMIS rated 2 policies (22%) using
9 package modifiers other than those filed with the Department.

10 5. During the period covered by the examination, CUMIS
11 cancelled or non-renewed a total of 2,728 personal auto
12 policies. Of these, 236 were cancelled for reasons other than
13 nonpayment of premium.

14 a. The Examiners reviewed 26 policies which were
15 cancelled or non-renewed for nonpayment of premium. CUMIS
16 failed to notify all of these insureds (100%) of their right to
17 complain to the Director of the cancellations.

18 b. The Examiners reviewed 87 of the policies which
19 CUMIS cancelled or non-renewed for reasons other than nonpayment
20 of premium. CUMIS failed to advise all of these insureds (100%)
21 of their right to complain to the Director and of their possible
22 eligibility for insurance through the assigned risk plan, and
23 failed to provide refunds of unearned premium in accompaniment
24 with all of these notices of cancellation.

25 c. The Examiners reviewed 63 policies that had been
26 in effect for more than 60 days and were then cancelled or
27 non-renewed for reasons other than nonpayment of premium. Of

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1 the 63, CUMIS cancelled three policies (4.8%) for grounds other
2 than those permitted by A.R.S. § 20-1631(C).

3 d. CUMIS cancelled or non-renewed four policies that
4 had been in effect for more than 60 days prior to cancellation
5 or non-renewal because a person other than the named insured was
6 implicated in one or more of the incidents listed in A.R.S.
7 §20-1631(C)(3), and did not provide the named insured an
8 opportunity to exclude the person from coverage.

9 6. The Examiners reviewed all 24 of the homeowners
10 policies cancelled or non-renewed by CUMIS for underwriting
11 reasons. Of these, CUMIS failed to notify two insureds (8.3%)
12 of the non-renewal of their policies at least 30 days prior to
13 expiration date.

14 7. The Examiners reviewed all 43 of the first-party
15 personal automobile total loss claims for the period January 1,
16 1990 through August 31, 1994. CUMIS elected to make cash
17 settlements in all of these cases. The Examiners criticized 30
18 of these files (70%).

19 a. In 30 of the files (70%), the Examiners found
20 that CUMIS failed to pay its insureds all applicable taxes,
21 license fees and other fees incident to transfer of ownership
22 necessary to purchase a comparable automobile of the actual cash
23 value of the insureds' vehicles. CUMIS underpaid these
24 claimants a total of \$1021.29.

25 b. On 11 of these criticized files (25.6%), CUMIS
26 did not base the actual cash value of each automobile on either
27 the cost of a comparable automobile in the local market area or
28 on one of two or more dealer quotations, and failed to support

1 the deviation from these methods by documentation giving
2 particulars of the automobiles' condition. As a result, these
3 claimants were underpaid, including underpayment of sales taxes
4 on the additional cash value, by a total of \$3,528.00.

5 8. CUMIS failed to use either the cost of a comparable
6 automobile in the local market area or on one of two or more
7 dealer quotations as a basis for the actual cash value of one
8 commercial first party total loss automobile, and did not
9 document the deviation from this method. On the same claim,
10 CUMIS failed to pay any of the applicable sales taxes and
11 license fees due. The claimant was underpaid by \$120.20.

12 CONCLUSIONS OF LAW

13 1. By failing to issue policies of commercial insurance
14 with premiums developed in a manner consistent with its filings
15 pursuant to A.R.S. §20-385, CUMIS violated A.R.S. § 20-400.01(A).

16 2. By failing to notify personal automobile insureds
17 whose policies were cancelled or non-renewed for nonpayment of
18 premium of the right to complain to the Director, CUMIS violated
19 A.R.S. § 20-1632.01(B).

20 3. By failing to advise personal automobile insureds
21 whose policies were cancelled or non-renewed for reasons other
22 than nonpayment of premium of the right to complain to the
23 Director and of possible eligibility for insurance through the
24 assigned risk plan, CUMIS violated A.R.S. § 20-1632(B).

25 4. By failing to provide refunds of unearned premium in
26 accompaniment with the notices of cancellation of personal
27 automobile policies cancelled for reasons other than nonpayment
28 of premium, CUMIS violated A.R.S. § 20-1632(C).

1 5. By cancelling or non-renewing personal automobile
2 policies which were in effect for more than 60 days for reasons
3 not consistent with A.R.S. § 20-1631(C), CUMIS violated A.R.S. §
4 20-1631(C).

5 6. By cancelling or non-renewing personal auto policies
6 without providing the named insureds the opportunity to exclude
7 from coverage the persons who were implicated in one or more of
8 the incidents listed in A.R.S. § 20-1631(C)(3), CUMIS violated
9 A.R.S. § 20-1631(D).

10 7. By failing to notify insureds of the non-renewal of
11 homeowner policies at least 30 days prior to expiration date,
12 CUMIS violated A.R.S. § 20-1654(A).

13 8. By failing to pay the full amount of sales taxes and
14 license fees required for the purchase of comparable automobiles
15 to first-party claimants in their settlement of first-party
16 automobile total loss claims, CUMIS violated A.A.C.
17 R20-6-801(H)(1)(b) and A.R.S. § 20-461(A)(6).

18 9. By using a method other than one of two dealer
19 quotations or a comparable car to determine the actual cash
20 value of first party total loss automobiles, and failing to
21 document the deviation from these methods, CUMIS violated A.A.C.
22 R20-6-801(H)(1)(c) and A.R.S. § 20-461(A)(6).

23 10. Grounds exist for the entry of the following Order.

24 ORDER

25 CUMIS, having admitted the jurisdiction of the Director to
26 enter this Order, having waived the Notice of Hearing and the
27 hearing, having waived any and all rights to appeal this Order,

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1 and having consented to the entry of this Order, and there being
2 no just reason for delay:

3 IT IS ORDERED THAT:

4 1. CUMIS shall cease and desist from failing to:

5 a. issue commercial policies of insurance with
6 premiums developed in a manner consistent with its filings
7 pursuant to A.R.S. § 20-385;

8 b. notify personal automobile insureds of the right
9 to complain to the Director upon cancellation of the policies;

10 c. provide refunds of unearned premium and notices
11 that the insured may qualify for the assigned risk plan with
12 notices of cancellation of personal automobile policies
13 cancelled for reasons other than nonpayment of premium;

14 d. provide the named insured the opportunity to
15 exclude the person who violated the provisions of A.R.S. §
16 20-1631(C) from coverage prior to cancelling the named insured's
17 personal automobile policy;

18 f. notify insureds of the non-renewal of homeowner
19 policies for reasons other than nonpayment of premium at least
20 30 days prior to expiration date;

21 g. pay the full amount of sales taxes and license
22 fees required for the purchase of comparable automobiles to
23 first-party claimants in their settlement of first-party
24 automobile total loss claims.

25 h. base the actual cash value of first party total
26 loss automobiles upon the cost of comparable cars in the local
27 market area or one of two or more dealer quotations, and support

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1 any deviation from these methods by documentation giving
2 particulars of the automobiles' condition.

3 2. Within 30 days of the filed date of this Order, CUMIS
4 shall submit to the Director a written action plan to provide
5 ongoing training of all claims personnel, including independent
6 adjusters, in the requirements of A.A.C. R20-6-801(H) pertaining
7 to the settlement of automobile insurance claims. The action
8 plan shall include copies of any bulletins to be sent to
9 adjusters and other claims personnel.

10 3. Within 60 days of the filed date of this Order, CUMIS
11 shall pay to the claimants listed in Exhibit 9 of the Report of
12 Examination (attached as Exhibit A) a total of \$4,549.29, plus
13 interest at the rate of 10% per annum calculated from the date
14 each claim was received by the insured to the date of this
15 payment. Each payment shall be accompanied by a letter to the
16 insured acceptable to the Director. A list of payments giving
17 the name and address of each party to whom payments were made,
18 the base amount of each payment, the amount of interest paid,
19 and the date of payment, shall be provided to the ADOI when all
20 payments have been made.


21 4. The Department shall be permitted, through authorized
22 representatives, to verify that CUMIS has fully complied with
23 all requirements of this Order.

24 5. CUMIS shall pay a civil penalty of \$11,000 to the
25 Director for deposit in the State General Fund in accordance
26 with A.R.S. §20-220 (B). This civil penalty shall be provided
27 to the Examinations Division of the ADOI on or before August 31,
28 1995.

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6. The October 28, 1994 Report of Examination, and any objections to the Report submitted by CUMIS, shall be filed with the Department on the date this Order is filed by the Director.

DATED at Phoenix, Arizona this 15th day of September, 1995.


Chris Herstam
Director of Insurance

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CONSENT TO ORDER

1. Respondent, CUMIS Insurance Society, Inc., has reviewed the attached Order.

2. Respondent is aware of its right to a hearing at which hearing Respondent may be represented by counsel, present evidence and cross-examine witnesses. Respondent irrevocably waives its right both to demand a public hearing and to seek judicial review of this Consent Order.

3. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona, and consents to the entry of this Order.

4. Respondent states that no promise of any kind or nature has been made to induce it to enter into this Order and that it has entered into this Order voluntarily.

5. Respondent acknowledges that the acceptance of this Order by the Director of Insurance, State of Arizona, is solely to settle this matter against it and does not preclude any other agency or officer of this state or subdivision from instituting other civil or criminal proceedings as may be appropriate now or in the future.

6. Robert A. Miller holds the office of Vice President - Internal Audit of CUMIS Insurance Society, Inc., and is authorized to enter into this Order on its behalf.

August 30, 1995
(Date)

Robert A. Miller
CUMIS INSURANCE SOCIETY, INC.

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2 COPY of the foregoing mailed/delivered
this 15th day of September, 1995, to:

3 Charles R. Cohen
Deputy Director
4 Gregory Y. Harris
Executive Assistant Director
5 Lewis D. Kowal
Chief Administrative Law Judge
6 Erin H. Klug
Executive Assistant to the Director
7 Jimmy R. Potts
Examinations Coordinator
8 Market Conduct Examinations Division
Saul R. Saulson
9 Examinations Supervisor
Market Conduct Examinations Division
10 Mary Butterfield
Assistant Director
11 Life & Health Division
Deloris E. Williamson
12 Assistant Director
Rates & Regulations Division
13 Gary Torticill
Assistant Director and Chief Financial Examiner
14 Corporate & Financial Affairs Division
Cathy O'Neil
15 Assistant Director
Consumer Services and Investigations
16 Dean Ehler
Supervisor
17 Property and Casualty Section
Maureen Catalioto
18 Supervisor
Licensing Section

19
20 DEPARTMENT OF INSURANCE
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21 Phoenix, AZ 85018

22 Robert A. Miller
Vice President -- Internal Audit
23 CUMIS Insurance Society, Inc.
P.O. Box 1084
24 Madison, Wisconsin 53701-1084

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