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4 **BEFORE THE INSURANCE COMMISSIONER**
5 **OF THE STATE OF CALIFORNIA**
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<p>7 In the Matter of the Licenses and 8 Licensing Rights of:</p> <p>9 CALIFORNIA AUTOMOBILE 10 INSURANCE COMPANY, MERCURY 11 CASUALTY COMPANY and 12 MERCURY INSURANCE COMPANY,</p> <p>13 Respondents.</p>	<p>STIPULATION AND WAIVER</p> <p>File Nos. UPA 2007-00019 File No. UPA 2007-00013 File No. UPA 2007-00015 File No. UPA 2007-00020 OAH No. N2007070985 OAH No. N2007090572</p>
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16 RESPONDENTS CALIFORNIA AUTOMOBILE INSURANCE COMPANY,
17 MERCURY CASUALTY COMPANY, and MERCURY INSURANCE COMPANY
18 (collectively "Respondents") and the CALIFORNIA DEPARTMENT OF INSURANCE
19 ("Department") stipulate as follows:

20 WHEREAS, Respondents currently are, and at all times relevant were, insurers licensed
21 to conduct various classes of insurance in California and were conducting insurance business in
22 California; and

23 Whereas, on July 27, 2007, and on September 24, 2007, the Department issued Orders to
24 Show Cause and Statements of Charges/Accusations to Respondents (hereafter "OSC" or
25 "OSCs"), and which are incorporated herein by reference; and

26 Whereas, the Department maintains that the OSC allegations are true and constitute
27 grounds for the Commissioner to impose civil penalties and/or issue to Respondents orders to
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1 cease and desist from engaging in those methods, acts, or practices found to be unfair, deceptive
2 and in violation of the provisions of the California Insurance Code; and

3 Whereas Respondents deny the OSC allegations; deny that they are in violation of the
4 Insurance Code and regulations, and maintain that no fine or penalty is due and owing; and

5 Whereas, the Department and Respondents have discussed issues regarding (1)
6 Respondents' claims handling practices violations as set forth in the OSCs and (2) the "Trend
7 Review" of Respondents made for the period January 1, 2004 to December 31, 2005; and

8 Whereas, Respondents have advised the Department that they have implemented various
9 measures to ensure compliance with the Insurance Code and the Department's regulations; and

10 Whereas, the Department and Respondents believe it is in the public interest to resolve all
11 matters arising out of the OSCs and the Trend Review without the need for formal hearings and
12 further administrative action;

13 NOW, THEREFORE, with respect to the matters stated herein, the Department and
14 Respondents agree as follows:

15 A. Respondents waive the right to a hearing and any and all rights that Respondents
16 may be entitled to pursuant to Chapter 5, Part 1, Division 3, Title 2 of the California Government
17 Code.

18 B. This Stipulation and Waiver and the terms thereof are intended and are limited to
19 the resolution of (1) all violations alleged in the OSCs; and (2) all matters contained in, under
20 and/or referenced in the Trend Review.

21 However, nothing contained in this Stipulation and Waiver shall be construed or
22 interpreted to prevent or bar the Department from initiating enforcement action(s) against
23 Respondents, jointly and or severally, for alleged violation(s) of the Insurance Code and/or
24 violations of the Department's regulations issued on or after January 1, 2004, that are not
25 included in the OSCs and the Trend Review. In addition, nothing contained herein shall be
26 construed or interpreted to impact, in any way, any other action pending at this time against
27 Respondents by the Department.

28 C. Respondents agree that the Commissioner may, pursuant to California Insurance

1 Code section 12921(b)(4), issue an order against Respondents, and each of them, jointly and
2 severally, for a total amount of fifty thousand dollars (\$50,000.00) in costs of the Department in
3 bringing this enforcement action and future costs of the Department to ensure compliance with
4 the settlement

5 D. Respondents agree that the Commissioner may, pursuant to California Insurance
6 Code section 790.035, issue an order against Respondents, and each of them, jointly and
7 severally, for a civil penalty in the total amount of two hundred fifty thousand dollars
8 (\$250,000).

9 E. Respondents agree that the Commissioner may, pursuant to California Insurance
10 Code section 790.035, issue an order against Respondents, and each of them, jointly and
11 severally, for a civil penalty in the total amount of two hundred thousand dollars (\$200,000),
12 payment of which is to be suspended and is not to be paid unless Respondents fail to meet the
13 performance condition measure set forth in paragraph F below. In the event Respondents meet
14 or exceed this performance condition measure, any obligation to pay the amount referenced in
15 this paragraph E (\$200,000) shall be extinguished and nullified.

16 F. The performance condition measure for determining whether the \$200,000
17 amount referenced in paragraph E will be paid to the Department by Respondents is as follows:
18 The average justified complaint ratio in the three (3) years comprising the 2007 Auto Consumer
19 Complaint Study results, a copy of which is attached as Exhibit "A," compiled by the
20 Department for calendar years 2004, 2005, and 2006, listing all justified complaints issued to
21 each Respondent company resulting from auto claims handling requests for assistance filed with
22 the Department's Claims Services Bureau, will establish the baseline ("Baseline") against which
23 Respondents' performance is to be measured. The average auto complaint ratio that will serve as
24 the Baseline is 3.2. If the data for the calendar year ending December 31, 2008, show that
25 Respondents jointly achieve a 15% (fifteen percent) or more Baseline reduction in the justified
26 complaint ratio, then Respondents shall not make the \$200,000 payment. Conversely, if the data
27 for the calendar year ending December 31, 2008 show that Respondents jointly failed to achieve
28 a Baseline reduction of at least 15% in the auto justified complaint ratio, then Respondents shall

1 pay the \$200,000 to the Department. Respondents do not waive their right to contest any
2 justified complaint determination or finding made by the Department which serves as a basis for
3 the Department's calculation of Respondents' joint justified complaint ratio for the calendar year
4 ending December 31, 2008.

5 G. All payments that are to be made pursuant to the terms of this Stipulation shall be
6 payable to the State of California and mailed to the California Department of Insurance, Division
7 of Accounting, 300 Capital Mall, 13th Floor, Sacramento, California 95814, within thirty (30)
8 days of receipt of an invoice from the Department.

9 H. Among the training and claims handling procedures employed by Respondents,
10 Respondents circulate written materials to claims personnel advising them of the Fair Claims
11 Settlement Practices Regulations (10 Cal. Code Regs., § 2695.1 et seq.), provide instructional
12 presentations on the Fair Claims Settlement Regulations, and provide personal instruction on the
13 Fair Claims Settlement Regulations.

14 I. Respondents acknowledge that if they violate any of the terms or conditions of
15 this Stipulation and Waiver or any order issued pursuant thereto, the Commissioner may bring
16 disciplinary action against Respondents to enforce their terms in such manner as may be
17 authorized by law.

18 J. Respondents acknowledge that this Stipulation and Waiver is a public record
19 under California Government Code § 11517(d), and that it and any orders issued pursuant thereto
20 are open to public inspection pursuant to California Public Records Act, California Government
21 Code § 6250 et seq. In addition, pursuant to California Insurance Code § 12968, the Stipulation
22 and Waiver and any orders issued pursuant thereto will be posted on the Department's public
23 web site.

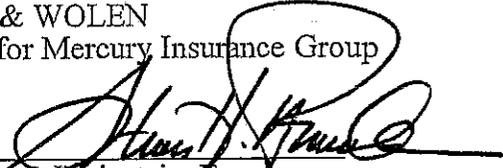
24 K. Respondents acknowledge that California Insurance Code § 12921 requires the
25 Insurance Commissioner to personally approve the final settlement of this matter, and that both
26 the settlement terms and conditions contained herein and the acceptance of those terms and
27 conditions are contingent upon the Commissioner's personal approval.

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Dated: June 5, 2008

BARGER & WOLEN
Attorneys for Mercury Insurance Group

By 
Steven Weinstein, Esq.
Approved as to form only

Dated: June 6, 2008

STEVE POIZNER
Insurance Commissioner

By 
Cindy A. Ossias
Senior Staff Counsel
Approved as to form only

CALIFORNIA CONSUMER COMPLAINT STUDY - 2007
50 LARGE AUTOMOBILE INSURERS LICENSED TO CONDUCT BUSINESS IN CALIFORNIA
RATIO for COMPLAINT YEARS - 2004, 2005 and 2006

2006 Rank	CO. Name	2006 Approx. Exposure Count	Justified Complaint Ratio			Number of Justified Complaints		
			2006	2005	2004	2006	2005	2004
1	CALIF. CASUALTY INDEMNITY EXCHANGE (THE)	149,688	0.7	1.9	0.0	1	3	0
2	WAWANESA GENERAL INS. CO.	291,306	0.7	0.7	0.8	2	2	2
3	WAWANESA MUTUAL INS. CO. (THE)	107,497	0.9	0.0	0.9	1	0	1
4	UNITED SERVICES AUTOMOBILE ASSOCIATION	425,030	1.2	1.9	0.5	5	8	2
5	STATE FARM MUTUAL AUTOMOBILE INS. CO.	2,927,730	1.2	1.6	1.5	36	45	43
6	ALLSTATE INDEMNITY CO.	1,450,144	1.4	1.8	1.5	20	24	18
7	INTERINS. EXCHANGE OF THE AUTOMOBILE CLUB OF SO. CALIF.	1,995,000	1.4	1.6	1.1	28	31	20
8	CALIF. STATE AUTOMOBILE ASSOCIATION INTER-INS. BUREAU	1,775,345	1.5	2.4	0.9	27	43	17
9	USAA CASUALTY INS. CO.	384,742	1.6	0.8	0.8	6	3	3
10	ALLIED PROPERTY AND CASUALTY INS. CO.	114,410	1.7	5.4	3.7	2	6	4
11	VIKING INS. CO. OF WISCONSIN	217,557	1.8	4.1	2.6	4	10	7
12	PROGRESSIVE WEST INS. CO.	292,908	2.0	5.6	4.0	6	14	9
13	AMCO INS. CO.	145,904	2.1	1.6	1.6	3	2	2
14	MERCURY INS. CO.	1,546,940	2.2	2.7	2.6	34	40	36
15	ALLSTATE INS. CO.	538,247	2.2	3.1	3.0	12	18	18
16	21ST CENTURY INS. CO.	1,246,979	2.4	3.6	2.5	30	51	36
17	CALIF. AUTOMOBILE INS. CO.	165,592	2.4	3.4	2.8	4	5	4
18	LIBERTY MUTUAL FIRE INS. CO.	285,996	2.4	2.7	3.7	7	7	8
19	EXPLORER INS. CO.	78,952	2.5	2.5	1.5	2	1	1
20	MERCURY CASUALTY CO.	413,390	2.7	4.9	3.8	11	21	16
21	PROGRESSIVE CHOICE INS. CO.	254,026	2.8	3.9	5.8	7	8	9
22	KEMPER INDEPENDENCE INS. CO.	66,853	3.0	3.2	4.0	2	2	2
23	ANCHOR GENERAL INS. CO.	62,627	3.2	3.1	2.6	2	2	1
24	PERMANENT GENERAL ASSURANCE CORPORATION	80,133	3.7	5.0	6.5	3	4	5
25	AMEX ASSURANCE CO.	183,867	3.8	4.8	5.9	7	8	8
26	FARMERS INS. EXCHANGE	1,630,248	4.0	4.9	4.8	65	95	95
27	QBE INS. CORPORATION	83,747	4.8	5.1	5.4	4	4	3
28	MERITPLAN INS. CO.	62,516	4.8	0.0	0.0	3	0	0
29	GOVERNMENT EMPLOYEES INS. CO.	208,070	4.8	4.0	1.5	10	8	3
30	NATIONAL GENERAL INS. CO.	204,548	4.9	4.9	2.5	10	10	5
31	GEICO GENERAL INS. CO.	365,110	4.9	4.1	2.0	18	13	6
32	STANDARD FIRE INS. CO. (THE)	98,009	5.1	11.8	7.6	5	11	7
33	HUDSON INS. CO.	160,421	5.6	11.0	39.8	9	15	30
34	HARTFORD CASUALTY INS. CO.	83,866	6.0	5.8	6.7	5	4	4
35	NATIONWIDE MUTUAL INS. CO.	98,804	6.1	7.4	5.2	6	8	6
36	COAST NATIONAL INS. CO.	277,131	6.1	9.1	9.6	17	31	39
37	HARTFORD UNDERWRITERS INS. CO.	200,991	6.5	9.0	6.3	13	17	11
38	GEICO INDEMNITY CO.	135,934	6.6	4.5	5.2	9	5	5
39	MID-CENTURY INS. CO.	392,532	6.6	5.8	0.0	26	1	0
40	GEICO CASUALTY CO.	43,325	6.9	13.2	2.9	3	5	1
41	ESURANCE PROPERTY AND CASUALTY INS. CO.	95,328	7.3	8.4	2.3	7	5	1
42	WESTERN UNITED INS. CO.	94,150	7.4	6.5	3.7	7	7	4
43	FINANCIAL INDEMNITY CO.	86,099	8.1	15.3	15.0	7	15	17
44	UNITRIN DIRECT INS. CO.	46,188	8.7	9.8	15.6	4	4	4
45	METROPOLITAN DIRECT PROPERTY AND CASUALTY INS. CO.	103,798	9.6	4.1	10.8	10	4	9
46	GRANITE STATE INS. CO.	326,227	10.1	16.2	12.6	33	40	24
47	INFINITY INS. CO.	569,171	10.2	14.1	9.9	58	73	46
48	SAFECO INS. CO. OF AMERICA	152,767	10.5	4.5	4.1	16	15	13
49	LINCOLN GENERAL INS. CO.	95,395	19.9	44.2	43.9	19	29	32
50	AMERICAN INTERNATIONAL INS. CO. OF CALIF., INC.	72,078	34.7	18.1	10.9	25	18	6

NOTE: Complaint Ratio is based on the number of Justified Complaints to 100,000 Earned Exposures.