

1 **BEFORE THE INSURANCE COMMISSIONER**
2 **OF THE STATE OF CALIFORNIA**

3 In the Matters of

4 AUTO REPAIR WARRANTY, INC.,
5 AUTO REPAIR GROUP, LLC,
6 MICHAEL F. PETRUZIELLO,
7 MICHAEL R. PETRUZIELLO,
8 AND
9 LAURA L. PETRUZIELLO, a.k.a.
10 LAUANN PETRUZIELLO,

11 Respondents.

ORDER TO CEASE AND DESIST (Ins. Code § 12921.8 (a)(1 & 2))

ORDER TO SHOW CAUSE (Ins. Code § 12921.8(a)(3))

ORDER TO SHOW CAUSE (Ins. Code § 1065.1 & 1065.3)

NOTICE OF RIGHT TO HEARING

File No's.

OSC-2009-00004

OSC-2009-00006

OSC-2009-00009

OSC-2009-00007

OSC-2009-00010

14 ORDER TO CEASE AND DESIST (§ 12921.8)

15 TO: AUTO REPAIR WARRANTY, INC.,
16 AUTO REPAIR GROUP, LLC.
17 MICHAEL F. PETRUZIELLO,
18 MICHAEL R. PETRUZIELLO,
19 LAURA L. PETRUZIELLO, a.k.a. LAUANN PETRUZIELLO

20
21 YOU ARE HEREBY ORDERED, PURSUANT TO CALIFORNIA INSURANCE CODE
22 SECTION 12921.8, IMMEDIATELY TO CEASE AND DESIST:

- 23 • SELLING, OFFERING FOR SALE, OR EMPLOYING, SOLICITING OR
24 ENABLING OTHERS TO SELL IN CALIFORNIA ANY AUTOMOBILE
INSURANCE POLICY AS DEFINED IN CALIFORNIA INSURANCE CODE
SECTION 116
- 25 • SELLING, OFFERING FOR SALE, OR EMPLOYING, SOLICITING OR
26 ENABLING OTHERS TO SELL IN CALIFORNIA ANY VEHICLE SERVICE
CONTRACT AS DEFINED IN CALIFORNIA INSURANCE CODE SECTION
12800

27 //

28 //

STATEMENT OF FACTS IN SUPPORT OF ORDER
TO CEASE AND DESIST (§ 12921.8)

1
2
3 1. Respondent AUTO REPAIR WARRANTY INC., (“ARWI”) is headquartered in Fairview
4 Park, Ohio, and does business in California. Respondent AUTO REPAIR GROUP, LLC,
5 (“ARG”) is the parent company of ARWI and directs and controls ARWI’s conduct as alleged
6 herein. MICHAEL F. PETRUZIELLO, (“MICHAEL F.”) and MICHAEL R. PETRUZIELLO,
7 (“MICHAEL R.”) are managers of ARWI and ARG. ARWI and ARG share the same address.
8 LAURA L. PETRUZIELLO a.k.a. LAUANN PETRUZIELLO (“LAURA PETRUZIELLO”) is
9 the wife of MICHAEL F. PETRUZIELLO and, based on information and belief, participates in
10 the management and control of ARWI and ARG. None of the Respondents are licensed by the
11 Department of Insurance in any capacity.

12
13 2. ARWI markets, distributes, sells, and acts as an obligor on vehicle service contracts.
14 ARWI markets, sells and distributes the contracts through the internet. ARWI sells the
15 agreements to buyers of new and used vehicles.

16
17 3. ARWI has violated numerous requirements of California’s vehicle service contract law
18 (California Insurance Code section 12800 et seq.) including, but not limited to, the
19 following:

- 20 A. It is not licensed as vehicle service contract provider, as required by section
21 12815(a).
- 22 B. It did not file its service contract forms with the Commissioner prior to providing
23 them to purchasers, as required by section 12820(a).
- 24 C. Its service contract form contains benefits not permitted to be included in a service
25 contract.
- 26 D. Its service contract form violates the disclosure requirement recited in section
27 12820(b)(1)(A). (Disclosure of back-up insurer and right to file a claim with that
28 insurer)

- 1 E. Its service contract form violates the disclosure requirement recited in section
2 12820(b)(1)(B). (Disclosure of California Department of Insurance toll-free phone
3 number for assistance)
- 4 F. Its service contract form violates section 12820(b)(2). (Conspicuous printing of
5 conditions and exclusions)
- 6 G. Its service contract form violates section 12820(b)(3)(A). (Disclosure of vehicle
7 service contract provider license number)
- 8 H. Its service contract form violates section 12820(b)(3)(B). (Disclosure of
9 cancellation rights pursuant to Civil Code 1794.4 and 1794.41)
- 10 I. It lacks “back-up” insurance as required by and in accordance with section 12830.
11

12 4. Because ARWI has violated section 12800 et seq., its service contracts constitute
13 insurance policies, pursuant to California Insurance Code sections 22, 116(a), (b) and (c), and
14 12805(a)(3). ARWI has not received a certificate of authority from the Department of Insurance
15 to act as an insurance company, as required by section 700(a). Consequently, its transaction of
16 insurance as an insurance company violates section 700(b).
17

18 5. The violations of sections 12815(a) and 12830 by ARWI constitute felonies, pursuant to
19 section 12845. The violation of section 700(a) is punishable as a felony pursuant to section
20 700(b).
21

22 6. The violations by ARWI were aided and abetted by Respondents ARG, MICHAEL F.
23 PETRUZIELLO, MICHAEL R. PETRUZIELLO AND LAURA PETRUZIELLO. The aiding
24 and abetting of ARWI’s felonious conduct by ARG, MICHAEL F. PETRUZIELLO, MICHAEL
25 R. PETRUZIELLO AND LAURA PETRUZIELLO constitute felonies, pursuant to California
26 Penal Code section 31.

27 //
28 //

1 7. ARWI conspired with Respondents ARG, MICHAEL F. PETRUZIELLO, MICHAEL R.
2 PETRUZIELLO AND LAURA PETRUZIELLO. Conspiracy to commit ARWI's felonious
3 conduct by ARG, MICHAEL F. PETRUZIELLO, MICHAEL R. PETRUZIELLO AND LAURA
4 PETRUZIELLO constitute felonies, pursuant to California Penal Code section 182.

5
6 8. The facts recited in paragraphs 1 - 7 establish cause for the issuance of the above cease
7 and desist order, pursuant to sections 12921.8(a)(1) and (2).

8
9 ORDER TO SHOW CAUSE (12921.8)

10 9. Paragraphs 1 – 7 are realleged. Respondents are hereby ordered to show cause why the
11 facts recited in those paragraphs do not establish cause for the Commissioner to impose upon
12 each of them a monetary penalty, pursuant to section 12921.8(a)(3), the amount of which shall be
13 not less than the greater of five times the amount of money received for its service contracts, or
14 five thousand dollars (\$5,000) for each day they sold or aided or abetted the selling of the
15 contracts. Respondents commenced the violations subjecting them to a monetary penalty on or
16 before March 30, 2008. The violations have continued to this day. Consequently, in the event of
17 default by any Respondent, that Respondent is liable to the State of California, and the
18 Department hereby prays for, a monetary penalty of \$5,000 per day from March 30, 2008 until
19 the date the proposed decision is entered.¹ ,

20 ORDER TO SHOW CAUSE (1065.1 AND 1065.3)

21 10. All Respondents are hereby ordered to show cause why the facts alleged in paragraphs 1 –
22 7 do not establish that they are conducting business and affairs in a manner hazardous to the
23 public, and provide cause for the Commissioner to issue an order, pursuant to sections 1065.1 and
24 1065.3, requiring them to cease and desist from further involvement with any business or contract
25 regulated by the Insurance Code until expressly permitted to resume participation by written order
26
27

28 ¹ Pursuant to section 12921.8((a)(3)(B), [i]n the absence of contrary evidence, it shall be presumed that a person continuously acted in a capacity for which a license...or certificate of authority was required on each day from the date of the earliest such act until the date those acts were discontinued, as proven by the person at hearing.”

1 of the Commissioner. The cease and desist order shall include, but not be limited to, a prohibition
2 against:

- 3 a. Soliciting, negotiating, executing, delivering, effecting, arranging, or administering
4 or otherwise transacting any contract regulated by the Insurance Code in exchange
5 for compensation of any kind.
- 6 b. Having any contact with any other person for the purpose of soliciting,
7 negotiating, executing, delivering, effecting, arranging, administering or otherwise
8 transacting any contract regulated by the Insurance Code in exchange for
9 compensation of any kind.
- 10 c. Participating in advertising that implies that respondent is licensed by the
11 Department of Insurance or is engaged in the business of soliciting, negotiating,
12 executing, delivering, effecting, arranging, administering or otherwise transacting
13 any contract regulated by the Insurance Code.
- 14 d. Acting as an owner, partner, officer, director, shareholder with more than 10% of
15 outstanding shares, or employee of, or having any interest in, any business that
16 solicits, negotiates, executes, delivers, effects, arranges, administers or otherwise
17 transacts any contract regulated by the Insurance Code.
- 18 e. Acting as an office manager, agent, broker, general agent, managing general agent,
19 underwriter, consultant, solicitor, clerk, secretary, advisor, or administrator, or
20 otherwise supervising, controlling, advising, administering or participating in the
21 conduct of any business involved with a contract regulated by the Insurance Code.
- 22 f. Receiving any money, commission, fee, rebate, payment, remuneration, or any
23 other valuable consideration whatsoever, in connection with any business involved
24 with a contract regulated by the Insurance Code, or for work for, advice to, or
25 consultation with any business involved with a contract regulated by the Insurance
26 Code, except as an insured.

27 //

28 //

- 1 g. Handling, controlling, delivering, transporting, distributing, storing, maintaining,
2 creating, completing, executing, or having access to any form regulated by the
3 Insurance Code, except as an insured.
- 4 i. Collecting, receiving, requesting, maintaining, handling, distributing, refunding,
5 returning, remitting, assigning, effecting, having access to, controlling, or
6 otherwise having anything to do with any money that has anything to do with any
7 business involved with a contract regulated by the Insurance Code, except as an
8 insured.

9

10 NOTICE OF RIGHT TO HEARING

11 If you desire a hearing in this matter, your written request for a hearing must be received
12 within 15 days after you are served with the order. The 15 days begin to run on the day after the
13 day you are served, and if the 15th day falls on a weekend, the period in which your request must
14 be filed is extended until Monday or the next business day if Monday is a holiday. Your written
15 request for a hearing must be directed to: Sara K. Urakawa, Staff Counsel, California Department
16 of Insurance, 45 Fremont Street, 19th Floor, San Francisco, California 94105. You may use the
17 enclosed Notice of Defense form. Each respondent wishing to request a hearing must sign a
18 separate Notice of Defense form.

19 IN WITNESS WHEREOF, I have set my hand and affixed my official seal this _28th day
20 of December, 2009.

21

22

23 STEVE POIZNER
Insurance Commissioner

24 

25 By
26 JOSE S. AGUILAR
Assistant Chief Counsel