

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

3
4 In the Matter of:

5 Civil Service Employees Insurance
6 Company, and CSE Safeguard Insurance
7 Company,

8 Respondents.

File No.: UPA 2008-00015-AP

OAH No.: L-2009060059

ORDER

9 WHEREAS, Respondents executed a Stipulation and Waiver on July 10, 2010, the terms
10 of which are hereby incorporated herein; and

11 WHEREAS, Respondents have waived their rights to a hearing and have stipulated to the
12 entry of this Order;

13 NOW, THEREFORE, based on the stipulations contained in the Stipulation and Waiver, it
14 is ORDERED, that Respondents cease and desist from engaging in any such methods, acts or
15 practices as are violative of CIC §§ 790.03(h) (3), 790.03 (h) (5) and the Fair Claims Settlement
16 Practices Regulations, CCR, Title 10, Chapter 5, § 2695.1 et seq., other claim processing
17 Insurance Code sections, and other California insurance related statutes. Specifically,
18 Respondents shall cease and desist from engaging in those methods, acts, or practices that are
19 violative of:

20 CIC § 560 (pay authorized completed repairs within ten (10) days of receipt of itemized
21 repair bill or invoice);

22 CIC §§790.03(h)(1), 790.03(h)(3),790.03(h)(5), and 790.03(h)(12) (provide the insured or
23 claimant with pertinent facts or policy provisions relating to coverage; adopt and implement
24 reasonable standards for prompt investigation of claims; effectuate prompt, fair and equitable
25 settlement of claim in which liability had become reasonably clear; and not withhold settlement
26 of a claim promptly, where liability is apparent under a portion of the policy coverage in order to
27 influence other coverage portions of the policy);

28 CIC § 880 (to conduct business in its own name);

1 CIC §§ 1871.3 (a), 1871.3(b), and 1871.3(d)(3) (to secure theft affidavit prior to
2 settlement of claim; provide instructions to insured or claimant regarding signature on the theft
3 affidavit; and to obtain and retain copy of police report related to the claim);

4 CIC §§ 1871.2 (include California fraud warning on forms);

5 CIC § 1871.4(a) (report suspected fraudulent claims to the Bureau of Fraudulent Claims
6 within sixty (60) days);

7 CIC § 1874.6(report automobiles involved in theft and salvage total losses to the National
8 Insurance Crime Bureau);

9 CIC § 11580.011(e) (where a child is involved in auto accident claim, to ask if a child
10 passenger restraint system was in use by a child at time accident, and to replace the child
11 passenger restraint system that was in use by a child during the accident);

12 CVC §§ 11515(a) and (b) (notify insured of his/her responsibility to notify Department of
13 Motor Vehicles regarding salvage retention of vehicle, and to notify DMV that owner of total loss
14 salvage vehicle has retained possession of vehicle);

15 CCR §§ 2632.13(e) (2) and 13(e)(3) (advise insured he/she was principally at fault for an
16 accident; to advise insured of method to request reconsideration of fault; and to respond to
17 insured within thirty (30) days of insured's request for reconsideration that insured vehicle was
18 principally at fault for an accident);

19 CCR §§ 2695.3(a), and 2695.3(b) (2) (include documents, notes, and work papers on the
20 claim in claim file; and to record the date received and/or transmitted on all relevant claim
21 documents);

22 CCR §§ 2695.4(a) and (d) (to disclose to insured all benefits, coverage limits, and other
23 provisions of the policy; and to not require first party claimant to give notification of a claim or
24 proof of claim within a specific time except where the time limit is specified in the policy);

25 CCR §§ 2695.5(a), 2695.5(b), 2695.5(e) (1), 2695.5(e) (2), and 2695.5(e) (3) (respond in
26 writing to Department immediately but no later than twenty-one (21) calendar days of the request;
27 respond to communications from the insured within fifteen (15) calendar days; acknowledge
28 notice of claim within fifteen (15) calendar days; provide necessary forms, instructions and

1 reasonable assistance within fifteen (15) calendar days of filing of claim; and to begin
2 investigation of the claim within fifteen (15) calendar days of receipt of claim);

3 CCR §§ 2695.7(b), 2695.7(b)(1), 2695.7(b)(3), 2695.7(c) (1), 2695.7(d), 2695.7(f),
4 2695.7(g), 2695.7(h) (accept or deny a claim within forty (40) calendar days from receipt of proof
5 of claim; to provide written basis for denial of claim; include with denial or rejection of claim
6 statement that the denial or rejection may be reviewed by the California Department of
7 Insurance; provide written notice of the need for additional time to accept or deny claim every
8 forty (40) calendar days; not persist in seeking information not reasonably required for or material
9 to the resolution of the claim; provide written notice of any statute of limitations or other time
10 period requirements no less than sixty (60) days prior to expiration date; not attempt to settle a
11 claim by making a settlement offer that is unreasonably low; tender payment within thirty (30)
12 calendar days of acceptance of claim; where it believes that claimant has submitted false or
13 fraudulent claim, accept or deny the claim within eighty (80) calendar days; to provide written
14 notice to first party claimant as to whether Respondents intends to pursue subrogation; provide
15 written notice to first party claimant of its decision to not pursue or to discontinue subrogation);

16 CCR §§ 2695.8(b) (1), 2695.8(b) (1) (A), 2695.8(b) (2) and (3), 2695.8(c), 2695.8(e)
17 (2)(A), 2695.8(f), 2695.8(g) (3) and (5), and CCR 2695.8(i) (provide written basis for total loss
18 settlement; provide list of comparable vehicle valuations; include in the settlement all fees and
19 taxes incident to transfer of ownership of comparable vehicle, including all fees incident to the
20 transfer of the vehicle to salvage status; provide support for deduction from cost of comparable
21 vehicle, support any adjustment from the costs of a comparable vehicle that is discernable,
22 measurable, itemized and specified as well as appropriate in dollar amount and so documented in
23 the claim file; provide written notice to insured that he/she must report salvage retention to DMV,
24 that he/she may seek refund of unused vehicle license fee from DMV, and that salvage status may
25 affect the sale/value of the vehicle; not direct, suggest or recommend a specific automobile repair
26 shop without the express request of the claimant; document and fully explain to the insured the
27 basis of betterment, depreciation, or salvage; provide itemize estimate upon which settlement is
28 based and to take reasonable steps to verify that costs of comparable vehicle is accurate and

1 representative of the local market value for comparable vehicle; notify the insured that the claim
2 will be re-opened if Respondents are notified within thirty-five (35) days that the insured cannot
3 purchase a comparable vehicle for the settlement amount offered or paid by Respondents; comply
4 with the disclosure requirements of California Business and Professions Code § 9875 when
5 Respondents require the use on non-original equipment manufacturer replacement crash parts;
6 provide written notice as to whether Respondents intend to pursue subrogation);

7 CCR § 2695.85 (provide the insured with the Auto Body Repair Consumer Bill of
8 Rights); and

9 **IT IS FURTHER ORDERED, that Respondent shall pay a monetary of five hundred**
10 **and five thousand dollars (\$505,000.00) to the State of California as a monetary penalty,**
11 **with four hundred and fifty thousand dollars (\$450, 000) of such amount applied as a**
12 **monetary penalty under CIC §§ 790.03 and 790.035 and fifty five thousand (\$55,000) as a**
13 **monetary penalty in lieu of suspension of Respondents' certificate of authority under CIC**
14 **§§ 790.05 and 790.07. Said monetary penalty to be paid in two (2) installments. The first**
15 **installment of two hundred fifty five thousand (\$255, 000) shall be paid within thirty (30)**
16 **days of receipt of an invoice from the Department. The second installment of two hundred**
17 **fifty thousand (\$250,000) shall be paid no later than March 1, 2011. Both installment**
18 **payments shall be mailed to:**

19 **California Department of Insurance**
20 **Division of Accounting, 300 Capital Mall, 13th Floor**
21 **Sacramento, CA 95814**

22
23 This Order shall be effective immediately.

24 Dated: SEPTEMBER 20, 2010

25 STEVE POIZNER
26 California Insurance Commissioner

27
28 By _____


JOSE AGUILAR
Assistant Chief Counsel