

1 CALIFORNIA DEPARTMENT OF INSURANCE  
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6

7 **BEFORE THE INSURANCE COMMISSIONER**  
8 **OF THE STATE OF CALIFORNIA**  
9

10 In the Matter of

ORDER TO SHOW CAUSE AND  
STATEMENT OF CHARGES /  
ACCUSATION

(Cal.Ins.Code, §§790.03, 700(c), 704)

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13 CALIFORNIA AUTOMOBILE  
INSURANCE COMPANY,

File No. UPA 2007-00019

14 MERCURY CASUALTY COMPANY,  
15 and

File No. UPA 2007-00013

16 MERCURY INSURANCE COMPANY,

File No. UPA 2007-00015

17  
18 Respondents.  
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20 WHEREAS, the Insurance Commissioner of the State of California has reason to believe  
21 that the above Respondents, CALIFORNIA AUTOMOBILE INSURANCE COMPANY,  
22 MERCURY CASUALTY COMPANY, and MERCURY INSURANCE COMPANY, have been  
23 engaged or are engaging in this State in the unfair methods of competition or unfair or deceptive  
24 acts or practices set forth in the STATEMENT OF CHARGES/ACCUSATION contained herein,  
25 each falling within Section 790 et seq. of the California Insurance Code;

26 WHEREAS, the Insurance Commissioner has reason to believe that a proceeding with  
27 respect to the alleged acts of Respondents would be in the public interest;  
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1 NOW, THEREFORE, and pursuant to the provisions of Section 790.05 of the California  
2 Insurance Code, Respondents are ordered to appear before the Insurance Commissioner of the  
3 State of California on **September 10-14, 2007, at 1515 Clay Street, Ste. 206, Oakland,**  
4 **California, at 9:00 A.M.**, and show cause, if any cause there be, why the Insurance  
5 Commissioner should not issue an Order to said Respondents requiring Respondents to Cease  
6 and Desist from engaging in the methods, acts, and practices set forth in the STATEMENT OF  
7 CHARGES contained herein in Paragraphs IV.A. through IV.C., inclusive.

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9 **I.**

10 **JURISDICTION AND BACKGROUND**

11 A. Respondents CALIFORNIA AUTOMOBILE INSURANCE COMPANY  
12 (“California Auto”), MERCURY CASUALTY COMPANY (“Mercury Casualty”), and  
13 MERCURY INSURANCE COMPANY (“Mercury Insurance”) (all three collectively,  
14 “Respondents”), are, and at all relevant times have been, holders of Certificates of Authority  
15 issued by the Commissioner and are authorized to transact insurance business in California.  
16 Respondents are part of the Mercury Group of Companies, designated by the National  
17 Association of Insurance Commissioners (NAIC) as Group Number 0660. Mercury Group of  
18 Companies, itself, is not a specific entity licensed by the California Insurance Commissioner.

19 B. California Auto is a California corporation licensed in the State of California to  
20 transact automobile, fire and miscellaneous (among other) insurance, as defined in Section 100 et  
21 seq. of the California Insurance Code.

22 C. Mercury Casualty is a California corporation licensed in the State of California to  
23 transact automobile, fire and miscellaneous (among other) insurance, as defined in Section 100 et  
24 seq. of the California Insurance Code.

25 D. Mercury Insurance Company is a California corporation licensed in the State of  
26 California to transact automobile, fire and miscellaneous (among other) insurance, as defined in  
27 Section 100 et seq. of the California Insurance Code.

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**II.**  
**INVESTIGATION**

A. The California Department of Insurance (CDI) conducts a longstanding program, pursuant to Sections 12921.1(a) and 12921.3(a) of the California Insurance Code, to receive and respond to consumer inquiries, receive and investigate consumer complaints, and, when warranted, bring enforcement actions against – that is, prosecute – insurers.

B. In the normal course of this program, a “trend review” was conducted of consumer complaints received against Respondents. A total of one hundred twenty-one (121) files were reviewed, including:

- ten (10) from California Auto,
- forty-eight (48) from Mercury Casualty, and
- sixty-three (63) from Mercury Insurance.

C. Each file contained one or more violations occurring during the period January 1, 2004, to December 1, 2005. In all 121 files, a total of two-hundred fifty-eight (258) violations were found, broken down among the three Respondents’ files as follows:

- thirty-five (35) violations were found in California Auto’s 10 files,
- one-hundred six (106) violations were found in Mercury Casualty’s 48 files, and
- one-hundred seventeen (117) violations were found in Mercury Insurance’s 63 files.

D. The 121 files involved automobile insurance, homeowners insurance, commercial multi-peril insurance, and/or condo/townhouse insurance.

**III.**  
**STATEMENT OF CHARGES / ACCUSATION**

It is alleged that Respondents have knowingly engaged in the following conduct or have performed the following acts with such frequency as to indicate a general business practice, in violation of the California Insurance Code and the California Code of Regulations:

1           A. CALIFORNIA AUTOMOBILE INSURANCE COMPANY

2           1. As stated in section II. above, thirty-five (35) violations were found in the 10  
3 California Auto files examined. Of these violations, fourteen (14) were in noncompliance with  
4 Section 880 of the California Insurance Code, which provides, “Except as provided in this  
5 article, every insurer shall conduct its business in this State in its own name.” Thirteen (13)  
6 letters in two files and one letter in another file failed to clearly identify California Auto as the  
7 insurer that underwrote the claimant’s policy;

8           2. There was a lack of documentation in three (3) claim files such that pertinent events  
9 and the dates of those events could not be reconstructed and Respondent’s actions pertaining to  
10 the claim could not be determined, in violation of Section 2695.3(a) of the California Code of  
11 Regulations, title 10, and Section 790.03(h)(3) of the California Insurance Code;

12           3. In three (3) instances, Respondent either failed to respond to CDI inquiries  
13 immediately, but in no event more than twenty-one (21) days after receipt, or failed to provide a  
14 complete written response that addressed all issues raised by CDI in its inquiry and include  
15 copies of any documentation and claim files requested, in violation of Section 2695.5(a) of the  
16 California Code of Regulations, title 10, and Section 790.03(h)(2) of the California Insurance  
17 Code;

18           4. In three (3) instances, Respondent failed to respond to claimants’ inquiries  
19 immediately, but in no event more than fifteen (15) days after receipt of the inquiry. In a further  
20 instance, Respondent failed to provide any response at all to the claimant. These failures  
21 constitute violations of Section 2695.5(b) of the California Code of Regulations, title 10, and  
22 Section 790.03(h)(2) of the California Insurance Code;

23           5. Respondent, upon receiving notice of a claim, failed to provide to the claimant  
24 necessary forms, instructions, and reasonable assistance, including but not limited to, specifying  
25 the information the claimant must provide for proof of claim, and failed to begin any necessary  
26 investigation of the claim, in violation of Sections 2695.5(e)(2) and (e)(3) of the California Code  
27 of Regulations, title 10, and Sections 790.03(h)(2) and (h)(3) of the California Insurance Code;

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1           6. Respondent failed, upon receiving proof of claim, to immediately, but in no event  
2 more than forty (40) calendar days later, accept or deny three (3) claims, in whole or in part, in  
3 violation of Section 2695.7(b) of the California Code of Regulations, title 10, and Section  
4 790.03(h)(3) of the California Insurance Code;

5           7. In five (5) instances, Respondent failed to notify claimants that more than forty (40)  
6 calendar days were required to determine whether their claims would be accepted or denied,  
7 resulting in unreasonable delays in claims handling, in violation of Section 2695.7(c)(1) of the  
8 California Code of Regulations, title 10, and Section 790.03(h)(4) of the California Insurance  
9 Code;

10           8. Respondent attempted to settle a claim by making a settlement offer that was  
11 unreasonably low, in violation of Section 2695.7(g) of the California Code of Regulations, title  
12 10, and Section 790.03(h)(5) of the California Insurance Code;

13           9. Respondent failed to settle a partial automobile loss claim for an amount adequate to  
14 make necessary repairs, in violation of Section 2695.8(f) of the California Code of Regulations,  
15 title 10, and Section 790.03(h)(5) of the California Insurance Code.

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17           B. MERCURY CASUALTY COMPANY

18           1. As stated in section II. above, one-hundred six (106) violations were found in the 48  
19 Mercury Casualty files examined. Of these violations, twenty-four (24) were in noncompliance  
20 with Section 880 of the California Insurance Code, which provides, “Except as provided in this  
21 article, every insurer shall conduct its business in this State in its own name.” Two files alone  
22 contained, respectively, eight (8) and six (6) letters that failed to clearly identify Mercury  
23 Casualty as the insurer that underwrote the claimant’s policy. Two (2) more files contained  
24 multiple letters in violation of Section 880, while the remaining four (4) files contained single  
25 violative letters;

26           2. There was a lack of documentation in four (4) claim files such that pertinent events and  
27 the dates of those events could not be reconstructed and Respondent’s actions pertaining to the  
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1 claim could not be determined, in violation of Section 2695.3(a) of the California Code of  
2 Regulations, title 10, and Section 790.03(h)(3) of the California Insurance Code;

3 3. Respondent failed to disclose to a first party claimant all benefits, coverage, time limits  
4 or other provisions of the insurance policy issued by Respondent that applied to the claim  
5 presented by the claimant, in violation of Section 2695.4(a) of the California Code of  
6 Regulations, title 10, and Section 790.03(h)(2) of the California Insurance Code;

7 4. In thirteen (13) claims, Respondent either failed to respond to CDI inquiries  
8 immediately, but in no event more than twenty-one (21) days after receipt, or failed to provide a  
9 complete written response that addressed all issues raised by CDI in its inquiry and include copies  
10 of any documentation and claim files requested, in violation of Section 2695.5(a) of the  
11 California Code of Regulations, title 10, and Section 790.03(h)(2) of the California Insurance  
12 Code;

13 5. In five (5) claims, Respondent failed to respond to claimants' inquiries immediately,  
14 but in no event more than fifteen (15) days after receipt of the inquiry. In two (2) instances,  
15 Respondent failed to provide any response at all to the claimant. These failures constitute  
16 violations of Section 2695.5(b) of the California Code of Regulations, title 10, and Section  
17 790.03(h)(2) of the California Insurance Code;

18 6. Respondent, upon receiving notice of two (2) claims, failed to acknowledge receipt of  
19 that notice to those claimants immediately, but in no event more than fifteen (15) calendar days  
20 later, unless payment is made within that period of time, in violation of Section 2695.5(e)(1) of  
21 the California Code of Regulations, title 10, and Section 790.03(h)(2) of the California Insurance  
22 Code;

23 7. Respondent, upon receiving notice of three (3) claims, failed to provide to the  
24 claimants immediately, but in no event more than fifteen (15) calendar days later, necessary  
25 forms, instructions, and reasonable assistance, including but not limited to, specifying the  
26 information the claimants must provide for proof of claim, and failed to begin any necessary  
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1 investigation of the 3 claims, in violation of Section 2695.5(e)(2) of the California Code of  
2 Regulations, title 10, and Section 790.03(h)(2) of the California Insurance Code;

3 8. Respondent, upon receiving notice of four (4) claims, failed to begin any necessary  
4 investigation of those claims immediately, but in no event more than fifteen (15) calendar days  
5 later, in violation of Section 2695.5(e)(3) of the California Code of Regulations, title 10, and  
6 Section 790.03(h)(3) of the California Insurance Code;

7 9. Respondent failed, upon receiving proof of nine (9) claims, immediately, but in no  
8 event more than forty (40) calendar days later, to accept or deny the claims, in whole or in part, in  
9 violation of Section 2695.7(b) of the California Code of Regulations, title 10, and Section  
10 790.03(h)(4);

11 10. Respondent, in denying or rejecting a first party claim in part, failed to provide to the  
12 claimant a statement listing all bases for such rejection or denial and the factual and legal bases  
13 for each reason given for such rejection or denial which was then within its knowledge, in  
14 violation of Section 2695.7(b)(1) of the California Code of Regulations, title 10, and Section  
15 790.03(h)(1);

16 11. Respondent, in denying or rejecting four (4) claims in whole or in part, failed to  
17 include a statement that, if the claimant believes all or part of the claim has been wrongfully  
18 denied or rejected, he or she may have the matter reviewed by the California Department of  
19 Insurance, and/or failed to include the address and telephone number of the unit of the  
20 Department which reviews claims practices, in violation of Section 2695.7(b)(3) of the California  
21 Code of Regulations, title 10, and Section 790.03(h)(3);

22 12. In twenty-three (23) instances, Respondent failed to notify claimants that more than  
23 forty (40) calendar days were required to determine whether their claims would be accepted or  
24 denied, and in several of the claims failed to continue to periodically notify the claimants of the  
25 need for additional time, failed to specify any additional information the insurer requires in order  
26 to make a determination, and/or failed to state any continuing reasons for Respondent's inability  
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1 to make a determination, in violation of Section 2695.7(c)(1) of the California Code of  
2 Regulations, title 10, and Sections 790.03(h)(3) and (4) of the California Insurance Code;

3 13. Respondent failed to conduct and diligently pursue a thorough, fair and objective  
4 investigation of a claim, in violation of Section 2695.7(d) of the California Code of Regulations,  
5 title 10, and Section 790.03(h)(3) of the California Insurance Code;

6 14. Respondent attempted to settle five (5) claims by making settlement offers that were  
7 unreasonably low, in violation of Section 2695.7(g) of the California Code of Regulations, title  
8 10, and Section 790.03(h)(5) of the California Insurance Code;

9 15. Respondent failed to provide written notification to a first party claimant as to  
10 whether it intended to pursue subrogation of the claim, and when Respondent elected not to  
11 pursue subrogation or discontinued pursuit of subrogation, it failed to notify the first party  
12 claimant that it was the claimant's responsibility to pursue subrogation, in violation of Section  
13 2695.7(p) of the California Code of Regulations, title 10, and Section 790.03(h)(1) of the  
14 California Insurance Code;

15 16. In evaluating one automobile total loss claim, Respondent failed to apply any of the  
16 standards contained in Section 2695.8(b) of the California Code of Regulations, title 10, in  
17 violation of that section and of Sections 790.03(h)(1), (3) and (5) of the California Insurance  
18 Code;

19 17. In evaluating an automobile total loss claim and offering a cash settlement,  
20 Respondent failed to include all applicable taxes and one-time fees incident to transfer of  
21 evidence of ownership of a comparable automobile, in violation of Section 2695.8(b)(1) of the  
22 California Code of Regulations, title 10, and Sections 790.03(h)(1), (3) and (5) of the California  
23 Insurance Code;

24 18. In evaluating an automobile total loss claim, Respondent failed to take reasonable  
25 steps to verify that the determination of the cost of a comparable vehicle was accurate and  
26 representative of the market value of a comparable automobile in the local market, failed to fully  
27 itemize and explain in writing the cost of a comparable automobile for the claimant at the time the  
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1 settlement offer was made, and failed to provide the department, upon its request, access to all  
2 records, data, computer programs, or any other information used by the insurer or any other  
3 source to determine the market value of a comparable automobile in the local market area, in  
4 violation of Section 2695.8(b)(4) of the California Code of Regulations, title 10, and Sections  
5 790.03(h)(1), (3) and (5) of the California Insurance Code;

6 19. Where Respondent's liability and damages were reasonably clear, Respondent  
7 recommended that a third party claimant make a claim under his or her own policy to avoid  
8 paying the claim under the policy issued by Respondent, in violation of Section 2695.8(d) of the  
9 California Code of Regulations, title 10, and Section 790.03(h)(5) of the California Insurance  
10 Code;

11 20. In a partial automobile loss settled on the basis of a written estimate prepared by or  
12 for Respondent, where the claimant subsequently contended, based upon a written estimate which  
13 he or she obtained, that necessary repairs would exceed the written estimate prepared by or for  
14 Respondent, Respondent unreasonably failed to pay the difference between its own written  
15 estimate and the higher estimates obtained by the claimant, and/or failed to reasonably adjust the  
16 written estimate prepared by the repair shop of the claimant's choice, in violation of Section  
17 2695.8(f) of the California Code of Regulations, title 10, and Section 790.03(h)(5) of the  
18 California Insurance Code;

19 21. Respondent failed to adjust an automobile claim reasonably, with adjustments being  
20 discernable, measurable, itemized, and specified as to dollar amount, reflecting the value of  
21 betterment or depreciation accurately, in violation of Section 2695.8(i) of the California Code of  
22 Regulations, title 10, and Section 790.03(h)(5) of the California Insurance Code.

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24 C. MERCURY INSURANCE COMPANY

25 1. As stated in section II. above, one-hundred seventeen (117) violations were found in  
26 Mercury Insurance's 63 files. Of these violations, one (1) was in noncompliance with Section  
27 880 of the California Insurance Code, which provides, "Except as provided in this article, every  
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1 insurer shall conduct its business in this State in its own name.” A letter in one file failed to  
2 clearly identify Mercury Insurance as the insurer that underwrote the claimant’s policy;

3 2. There was a lack of documentation in eight (8) instances such that pertinent events and  
4 the dates of those events in claim files could not be reconstructed and Respondent’s actions  
5 pertaining to the claim could not be determined, in violation of Section 2695.3(a) of the  
6 California Code of Regulations, title 10, and Section 790.03(h)(3) of the California Insurance  
7 Code;

8 3. In one file, Respondent failed to maintain, for the current year and the preceding four  
9 years, hard copy files or claim files that are accessible, legible and capable of duplication to hard  
10 copy, in violation of Section 2695.3(b)(3) of the California Code of Regulations, title 10, and  
11 Section 790.03(h)(3) of the California Insurance Code;

12 4. Respondent failed to disclose to two (2) first party claimants all benefits, coverage,  
13 time limits or other provisions of the insurance policy issued by Respondent that applied to the  
14 claims presented by the claimants, in violation of Section 2695.4(a) of the California Code of  
15 Regulations, title 10, and Section 790.03(h)(2) of the California Insurance Code;

16 5. In seventeen (17) instances, Respondent either failed to respond to CDI inquiries  
17 immediately, but in no event more than twenty-one (21) days after receipt, or failed to provide a  
18 complete written response that addressed all issues raised by CDI in its inquiry and to include  
19 copies of any documentation and claim files requested, in violation of Section 2695.5(a) of the  
20 California Code of Regulations, title 10, and Section 790.03(h)(2) of the California Insurance  
21 Code;

22 6. In eight (8) instances, Respondent failed to respond to claimants’ inquiries  
23 immediately, but in no event more than fifteen (15) days after receipt of the inquiry. In three (3)  
24 of these claims, Respondent failed to respond at all to the claimants’ inquiries; in one of these 3  
25 claims, that meant ignoring four (4) inquiries. These failures constitute violations of Section  
26 2695.5(b) of the California Code of Regulations, title 10, and Section 790.03(h)(2) of the  
27 California Insurance Code;

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1           7. Respondent, upon receiving notice of two (2) claims, failed to provide to the claimants  
2 immediately, but in no event more than fifteen (15) calendar days later, necessary forms,  
3 instructions, and reasonable assistance, including but not limited to, specifying the information  
4 the claimants must provide for proof of claim, and failed to begin any necessary investigation of  
5 the 2 claims, in violation of Section 2695.5(e)(2) of the California Code of Regulations, title 10,  
6 and Section 790.03(h)(2) of the California Insurance Code;

7           8. Respondent, upon receiving notice of three (3) claims, failed to begin any necessary  
8 investigation of those claims immediately, but in no event more than fifteen (15) calendar days  
9 later, in violation of Section 2695.5(e)(3) of the California Code of Regulations, title 10, and  
10 Section 790.03(h)(3) of the California Insurance Code;

11           9. Respondent failed, upon receiving proof of seven (7) claims, immediately, but in no  
12 event more than forty (40) calendar days later, to accept or deny the claims, in whole or in part, in  
13 violation of Section 2695.7(b) of the California Code of Regulations, title 10, and Section  
14 790.03(h)(4);

15           10. Respondent, in denying or rejecting two (2) first party claims in whole or in part,  
16 failed to provide to the claimants a statement listing all bases for such rejection or denial and the  
17 factual and legal bases for each reason given for such rejection or denial which was then within  
18 its knowledge, in violation of Section 2695.7(b)(1) of the California Code of Regulations, title 10,  
19 and Section 790.03(h)(1);

20           11. Respondent, in denying or rejecting a claim in whole or in part, failed to include a  
21 statement that, if the claimant believes all or part of the claim has been wrongfully denied or  
22 rejected, he or she may have the matter reviewed by the California Department of Insurance,  
23 and/or failed to include the address and telephone number of the unit of the Department which  
24 reviews claims practices, in violation of Section 2695.7(b)(3) of the California Code of  
25 Regulations, title 10, and Section 790.03(h)(3);

26           12. In thirty-four (34) instances, Respondent failed to notify claimants that more than  
27 forty (40) calendar days were required to determine whether their claims would be accepted or  
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1 denied, and in several of the claims failed to continue to periodically notify the claimants of the  
2 need for additional time, failed to specify any additional information the insurer requires in order  
3 to make a determination, and/or failed to state any continuing reasons for Respondent's inability  
4 to make a determination, in violation of Section 2695.7(c)(1) of the California Code of  
5 Regulations, title 10, and Sections 790.03(h)(3) and (4) of the California Insurance Code;

6 13. In seven (7) instances, Respondent failed to conduct and diligently pursue a thorough,  
7 fair and objective investigation, in violation of Section 2695.7(d) of the California Code of  
8 Regulations, title 10, and Section 790.03(h)(3) of the California Insurance Code;

9 14. Respondent attempted to settle five (5) claims by making settlement offers that were  
10 unreasonably low, in violation of Section 2695.7(g) of the California Code of Regulations, title  
11 10, and Section 790.03(h)(5) of the California Insurance Code;

12 15. Respondent failed, upon acceptance of three (3) claims in whole or in part, to tender  
13 payment of the amount of the claim that was accepted by Respondent immediately, but in no  
14 event more than thirty (30) calendar days later, in violation of Section 2695.7(h) of the California  
15 Code of Regulations, title 10, and Section 790.03(h)(3) of the California Insurance Code;

16 16. Respondent failed to provide written notification to a first party claimant as to  
17 whether it intended to pursue subrogation of the claim, and when Respondent elected not to  
18 pursue subrogation or discontinued pursuit of subrogation, it failed to notify the first party  
19 claimant that it was the claimant's responsibility to pursue subrogation, in violation of Section  
20 2695.7(p) of the California Code of Regulations, title 10, and Section 790.03(h)(1) of the  
21 California Insurance Code;

22 17. In evaluating two (2) automobile total loss claims, Respondent failed to fully itemize  
23 and explain in writing the cost of a comparable automobile for the claimant at the time the  
24 settlement offer was made, and failed to provide the department, upon its request, access to all  
25 records, data, computer programs, or any other information used by the insurer or any other  
26 source to determine the market value of a comparable automobile in the local market area, in  
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1 violation of Section 2695.8(b)(4) of the California Code of Regulations, title 10, and Sections  
2 790.03(h)(1), (3) and (5) of the California Insurance Code;

3 18. Where Respondent's liability and damages were reasonably clear, Respondent  
4 recommended that a third party claimant make a claim under his or her own policy to avoid  
5 paying the claim under the policy issued by Respondent, in violation of Section 2695.8(d) of the  
6 California Code of Regulations, title 10, and Section 790.03(h)(5) of the California Insurance  
7 Code;

8 19. Respondent failed to settle a partial automobile loss claim for an amount adequate to  
9 make necessary repairs, in violation of Section 2695.8(f) of the California Code of Regulations,  
10 title 10, and Section 790.03(h)(5) of the California Insurance Code;

11 20. In five (5) partial automobile losses settled on the basis of written estimates prepared  
12 by or for Respondent, where the claimants subsequently contended, based upon written estimates  
13 which they obtained, that necessary repairs would exceed the written estimates prepared by or for  
14 Respondent, Respondent unreasonably failed to pay the difference between its own written  
15 estimates and the higher estimates obtained by the claimants, in violation of Section 2695.8(f)(1)  
16 of the California Code of Regulations, title 10, and Section 790.03(h)(5) of the California  
17 Insurance Code;

18 21. In another partial automobile loss settled on the basis of a written estimate prepared  
19 by or for Respondent, Respondent failed to reasonably adjust the written estimate prepared by the  
20 repair shop of the claimant's choice and provide a copy of the adjusted estimate to the claimant, in  
21 violation of Section 2695.8(f)(3) of the California Code of Regulations, title 10, and Section  
22 790.03(h)(5) of the California Insurance Code;

23 22. Respondent failed to contain the justification in the claim file for adjusting the  
24 amount of a claim for betterment, and failed to fully explain the basis for the adjustment to the  
25 claimant in writing, in violation of Section 2695.8(i) of the California Code of Regulations, title  
26 10, and Section 790.03(h)(5) of the California Insurance Code;

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1           B.       California Insurance Code, section 790.03(h)(2)

2           The facts alleged above in Paragraphs I.A.-D., II.A.-D., and III.A.3-5, B.3-7, and C.4-7,  
3 show that Respondents have failed to acknowledge and act reasonably promptly upon  
4 communications with respect to claims arising under insurance policies, constituting grounds,  
5 under Section 790.05 of the Insurance Code, for the Insurance Commissioner to order  
6 Respondents to cease and desist from engaging in such unfair acts or practices and to pay a civil  
7 penalty not to exceed five thousand dollars (\$5,000) for each act, or if the act or practice was  
8 willful, a civil penalty not to exceed ten thousand dollars (\$10,000) for each act as set forth under  
9 Section 790.035 of the Insurance Code.

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11           C.       California Insurance Code, section 790.03(h)(3)

12           The facts alleged above in Paragraphs I.A.-D., II.A.-D., and III.A.2, 5 and 7, B.2, 8, 11-  
13 13, 16, 18, 19 and 21, and C.2, 3, 8, 11-13, 15, 17, 18, 22 and 23, show that Respondents have  
14 failed to adopt and implement reasonable standards for the prompt investigation and processing  
15 of claims arising under insurance policies, constituting grounds, under Section 790.05 of the  
16 Insurance Code, for the Insurance Commissioner to order Respondents to cease and desist from  
17 engaging in such unfair acts or practices and to pay a civil penalty not to exceed five thousand  
18 dollars (\$5,000) for each act, or if the act or practice was willful, a civil penalty not to exceed ten  
19 thousand dollars (\$10,000) for each act as set forth under Section 790.035 of the Insurance Code.

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21           D.       California Insurance Code, section 790.03(h)(4)

22           The facts alleged above in Paragraphs I.A.-D., II.A.-D., and III.A.6 and 7, B.9 and 12,  
23 and C.9 and 12, show that Respondents have failed to affirm or deny coverage of claims within a  
24 reasonable time after proof of loss requirements have been completed and submitted by the  
25 insured, constituting grounds, under Section 790.05 of the Insurance Code, for the Insurance  
26 Commissioner to order Respondents to cease and desist from engaging in such unfair acts or  
27 practices and to pay a civil penalty not to exceed five thousand dollars (\$5,000) for each act, or if  
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1 the act or practice was willful, a civil penalty not to exceed ten thousand dollars (\$10,000) for  
2 each act as set forth under Section 790.035 of the Insurance Code.

3  
4 E. California Insurance Code, section 790.03(h)(5)

5 The facts alleged above in Paragraphs I.A.-D., II.A.-D., and III.A.8 and 9, B.14, 16, 18,  
6 20 and 21, and C.14, 17, and 19-24, show that Respondents have not attempted in good faith to  
7 effectuate prompt, fair, and equitable settlements of claims in which liability has become  
8 reasonably clear, constituting grounds, under Section 790.05 of the Insurance Code, for the  
9 Insurance Commissioner to order Respondents to cease and desist from engaging in such unfair  
10 acts or practices and to pay a civil penalty not to exceed five thousand dollars (\$5,000) for each  
11 act, or if the act or practice was willful, a civil penalty not to exceed ten thousand dollars  
12 (\$10,000) for each act as set forth under Section 790.035 of the Insurance Code.

13  
14 F. California Insurance Code, sections 790.03(h), 880

15 The facts alleged above in Paragraphs I.A.-D., II.A.-D., and III.A.1-9, B.1-21, and C.1-25,  
16 show that Respondents have (a) conducted their business fraudulently; b) not carried out their  
17 contracts in good faith; and/or (c) habitually and as a matter of ordinary practice and custom  
18 compelled claimants under policies, or liability judgment creditors of the insured, to either accept  
19 less than the amount due under the terms of the policies or resort to litigation against such insurer  
20 to secure the payment of the amount due, constituting grounds for the Insurance Commissioner to  
21 suspend the Certificates of Authority of Respondents for not exceeding one year, pursuant to  
22 Section 704 of the Insurance Code.

23  
24 G. California Insurance Code, sections 790.03(h), 880

25 The facts alleged above in Paragraphs I.A.-D., II.A.-D., and III.A.1-9, B.1-21, and C.1-  
26 25, show that Respondents have conducted their business in noncompliance with the  
27 requirements as to their business set forth in the California Insurance Code and in the other laws  
28

1 of the State of California, constituting grounds for the Insurance Commissioner to revoke the  
2 Certificates of Authority of Respondents, pursuant to Section 700(c) of the Insurance Code.

3  
4 WHEREFORE Petitioner prays for judgment against Respondents as follows:

5 (1) An Order to Cease and Desist from engaging in such unfair acts or practices in  
6 violation of Section 790.03 of the California Insurance Code, as set forth above;

7 (2) For two-hundred fifty-eight (258) willful acts in violation of Section 790.03 and  
8 the regulations promulgated pursuant to Section 790.10 of the California Insurance Code, as set  
9 forth above, a penalty in the amount of ten thousand dollars (\$10,000) for each willful act;

10 (3) For acts in violation of Sections 700(c) and 704 of the California Insurance Code,  
11 suspension of Respondents' Certificates of Authority for not exceeding one year;

12 (4) Findings that breaches of contract have occurred and specification of the amount  
13 of actual damages sustained as a result of the breaches under the policies of insurance enumerated  
14 in this pleading; and

15 (5) Restitution for the victims in the event the decision includes suspension of  
16 Respondents' Certificates of Authority and a stay of execution included pursuant to Section  
17 11519 of the California Government Code.

18  
19 Dated: July 27, 2007

20  
21 STEVE POIZNER  
Insurance Commissioner

22 By / S /

23  
24 CINDY A. OSSIAS  
Senior Staff Counsel