

1 CALIFORNIA DEPARTMENT OF INSURANCE
2 LEGAL DIVISION
3 Auto Compliance Bureau
4 Kathleen L. Morgan, Bar No. 154346
5 45 Fremont Street, 21st Floor
6 San Francisco, CA 94105
7 Telephone: 415-538-4142
8 Facsimile: 415-904-5490

9 Attorney for The California Department of Insurance

10
11 **BEFORE THE INSURANCE COMMISSIONER**
12 **OF THE STATE OF CALIFORNIA**

13 In the Matter of the License and Licensing
14 Rights of

15 AMERICAN GUARDIAN
16 WARRANTY SERVICES, INC.

17 Respondent.

18 ACCUSATION and STATEMENT OF
19 ISSUES

20 File No. VSC 276A

21 File No. VSC 321A

22
23 1. This matter arises under the California Insurance Code Division 1, Part 1 and Part 2,
24 Chapter 1 and Division 3, Chapter 2, Article 1 which are general rules and regulations governing
25 the transaction of the business of insurance in the State of California.

26 2. The Department of Insurance (“Department”) is the agency of the State of California
27 responsible for licensing, monitoring and ensuring compliance with the Insurance Code by the
28 insurance industry as well as persons selling vehicle service contracts.

3. Administrative proceedings before the Department must be conducted in conformity
with the provisions of the California Administrative Procedure Act, Government Code section
11500 et seq.

PARTIES

4. Complainant JOHN GARAMENDI, Insurance Commissioner, files this matter in his
official capacity pursuant to Cal. Ins. Code section 12921.8(b) and Cal. Govt. Code section 11370

1 *et seq.*

2 5. On or about June 28, 2004, American Guardian Warranty Services, Inc. (hereinafter
3 referred to as "Respondent") applied to the California Department of Insurance (hereinafter
4 referred to as "Department") for a license to as a vehicle service contractor provider ("VSCP").
5 On or about August 23, 2004, pursuant to the Department's suggestion, respondents withdrew
6 their application and agreed to re-submit a VSCP license on September 15, 2004. On or about
7 September 15, 2004, the Respondent re-submitted an application for a VSCP license. The
8 application is pending.

9 6. Respondent holds a restricted license as a fire and casualty broker-agent in California.
10 Respondent's fire and casualty broker-agent license was revoked for cause and they were issued a
11 restricted license on May 15, 2002.

12 **ALLEGATIONS**

13 7. During the approximate period of January 2000 through October 31, 2003, in the
14 State of New York, Respondent acted as a service contract provider without obtaining an
15 approval of a registration to do so from the State of New York as required by New York law and
16 without complying with one of the financial responsibility requirements required by the State of
17 New York.

18 8. On January 22, 2003, Respondents were held to have violated S.C. Code Ann.
19 Section 38-43-30 (Supp. 2002). Specifically they transacted business in the State of South
20 Carolina without a license.

21 **PRAYER FOR RELIEF**

22 9. The matters set forth in Paragraphs 7 and 8 constitute grounds for the
23 Commissioner to deny respondent's application pursuant to Insurance Code section 1669(c).

24 10. The facts alleged in Paragraphs 7 and 8 constitute grounds for the Commissioner
25 to deny respondent's application pursuant to Insurance Code section 1668(p) and Stipulation and
26 Waiver and Order dated May 15, 2002, Paragraph 4.d.

27 11. The facts alleged in Paragraphs 7 and 8 constitute grounds for the Commissioner
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

to revoke respondent’s restricted fire and casualty broker-agent license pursuant to Cal. Ins. Code section 1742, as it is a violation of the Stipulation and Waiver and Order dated May 15, 2003,

Paragraph 4.d

Dated: 09/29/04

CALIFORNIA DEPARTMENT OF INSURANCE

By _____/s/
Kathleen L. Morgan,
Staff Counsel