

MAR 1 2001

DEPT. OF INSURANCE
BY

**STATE OF ARIZONA
DEPARTMENT OF INSURANCE**

In the Matter of:

AMERICAN PREMIER INSURANCE COMPANY,

NAIC #37001;

Respondent

) Docket No. 01A-058-INS

) CONSENT ORDER

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of American Premier Insurance Company ("APIC"). The Report of Examination of the Market Conduct Affairs of APIC dated January 27, 2000 alleges that APIC has violated A.R.S. §§20-461, 20-462, 20-2110 and A.A.C. R20-6-801.

APIC wishes to resolve this matter without formal proceedings, admits that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. APIC is authorized to transact property and casualty insurance pursuant to a Certificate of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct a market conduct examination of APIC. The on-site examination covered the time period from January 1, 1997 through September 1, 1999, and was concluded on January 27, 2000. Based on the findings, the Examiners prepared the "Report of Examination of the Market Conduct Affairs of American Premier Insurance Company" dated January 27, 2000.

1 3. The Examiners reviewed 58 of 118 new and renewal personal automobile
2 policies issued or renewed during the time frame of the examination and found that
3 APIC incorrectly applied a one-point surcharge to one insured's policy without any
4 evidence to support a violation of the Motor Vehicle Code, per APIC's filed Point
5 Assignment Table.

6 4. The Examiners reviewed 115 of 6,319 personal automobile policy files
7 canceled or nonrenewed during the time frame of the examination and found that APIC
8 canceled 60 policies for underwriting reasons but failed to provide the 60 insureds with
9 a Summary of Rights.

10 5. The Examiners reviewed 106 of 106 first party automobile total loss claims
11 and 30 of 30 third party automobile total loss claims paid during the time frame of the
12 examination and found that:

13 a. APIC failed to pay 85 insureds the correct amounts for sales tax, title,
14 registration and air quality fees.

15 b. APIC received a full subrogation payment on one first party claim file
16 06603708-01, but failed to reimburse the insured the deductible under the insured's
17 collision coverage when APIC received full payment.

18 c. APIC failed to pay interest at the legal rate of 10% per annum on
19 three first party claims not paid within thirty days of receipt of proof of loss.

20 d. APIC applied a 25% reduction from the Actual Cash Value due to an
21 insured's vehicle having a salvage title with no documentation in the file to support the
22 deviation.

23 6. APIC incorrectly applied a one-point surcharge to 1 of 58 personal
24 automobile policies issued, resulting in an overcharge of \$30.00 to one policyholder,
25 failed to correctly pay sales tax, title, registration and air quality fees to 85 claimants,

1 failed to reimburse one insured the collision coverage deductible after receiving full
2 subrogation recovery, applied a 25% reduction from the Actual Cash Value due to an
3 insured's vehicle having a salvage title with no documentation in the file to support the
4 deviation and failed to pay interest on three claims not paid within 30 days of receipt of
5 proof of loss, for a total of \$2,953.17 in claim underpayments. APIC has since
6 refunded to the insured the \$500.00 deductible upon which the Company received
7 subrogation recovery.

8 CONCLUSIONS OF LAW

9 1. APIC violated A.R.S. §20-2110(A) by failing to provide insureds with a
10 Summary of Rights when canceling personal automobile policies.

11 2. APIC violated A.A.C. R20-6-801(H)(1)(b) and A.R.S. §20-461(A)(6) by failing
12 to pay first party total loss claimants the full amount of applicable taxes, license fees
13 and other fees incident to transfer of evidence of ownership of comparable
14 automobiles.

15 3. APIC violated A.R.S. §20-461(A)(6) by failing to pay third party claimants the
16 full amount of applicable taxes, license fees and other fees incident to transfer of
17 ownership of comparable automobiles.

18 4. APIC violated A.R.S. §20-462(A) by failing to pay interest on first party
19 claims not paid within 30 days after its receipt of an acceptable proof of loss.

20 5. Grounds exist for the entry of the following Order, pursuant to A.R.S. §§20-
21 220 and 20-456.

22 ORDER

23 **IT IS ORDERED THAT:**

24 1. APIC shall cease and desist from:
25

1 a. Failing to provide insureds with a Summary of Rights in its notice of
2 cancellation and nonrenewal of personal automobile policies.

3 b. Failing to pay all first and third party automobile total loss claimants,
4 all applicable taxes, license fees and other fees incident to transfer of evidence of
5 ownership of comparable automobiles,

6 c. Failing to pay interest at the legal rate of 10% per annum, when any
7 first party claim is not paid within thirty days.

8 2. Within 90 days of filed date of this Order, APIC shall submit to the Arizona
9 Department of Insurance, for approval, evidence that corrections have been
10 implemented and communicated to the appropriate personnel regarding all of the
11 items mentioned in Paragraph 1 of the Order section of this Consent Order. Evidence
12 of corrective action and communication thereof includes, but is not limited to memos,
13 bulletins, E-mails, correspondence, procedures manuals, print screens and training
14 materials.

15 3. Within 90 days of the filed date of this Order, APIC shall pay \$234.05 plus
16 interest at the rate of 10% per annum to the 10 first party total loss claimants with
17 claims of \$5.00 or more listed in Exhibit A of this Order. Interest shall be calculated
18 from the date that the claim was received by the Company to the date of payment.

19 4. Within 90 days of the filed date of this Order, APIC shall pay interest to the
20 three first party total loss claimants, claim numbers 06179415-01, 02859759-01 and
21 06072357, at the legal rate of ten percent (10%) per annum until the claims are paid:

22 5. Within 90 days of the filed date of this Order, APIC shall pay the first party
23 total loss claimant, claim file 06219680-01, the \$1,553.00, plus applicable sales tax
24 and interest at the legal rate of ten percent (10%) per annum until the claim is paid.

1 6. Within 90 days of the filed date of this Order, APIC shall pay \$555.87 in
2 unpaid taxes, title registration fees and air quality fees to the 12 third party total loss
3 claimants with claims of \$5.00 or more listed in Exhibit B of this Order.

4 7. Within 90 days of the filed date of this Order, APIC shall refund to the
5 insured of personal automobile policy 06382008, the \$30.00 overcharge because
6 APIC incorrectly applied a one point surcharge.

7 8. Each payment made in accordance with Items 3, 4, 5, 6, and 7 above shall
8 be accompanied by a letter to either the insured or claimant in a form approved by the
9 Director. APIC shall list the payments, giving the name and address of each party
10 paid, the amount of the payment, the amount of interest paid, and the date of payment,
11 and shall provide this list to the Department, within 90 days of the filed date of this
12 Order.

13 9. The Department shall be permitted, through authorized representatives, to
14 verify that APIC has complied with all provisions of this Order.

15 10. APIC shall pay a civil penalty of \$9,000.00 to the Director for deposit in the
16 State General Fund in accordance with A.R.S. §20-220(B). This civil penalty shall be
17 provided to the Market Conduct Examinations Section of the Department prior to the
18 filing of this Order.

19 11. The Report of Examination of the Market Conduct Affairs of American
20 Premier Insurance Company, dated January 27, 2000, including the letter submitted in
21 response to the Report of Examination, shall be filed with the Department after the
22 Director has filed this Order.

DATED at Phoenix, Arizona this 28th day of February, 2001.


Charles R. Cohen
Director of Insurance

EXHIBIT A
**FAILURE TO PAY THE CORRECT TAXES, TITLE REGISTRATION FEES AND AIR
QUALITY FEES ON FIRST PARTY TOTAL LOSS SETTLEMENTS**

VIOLATIONS OF A.A.C. R20-6-801(H)(1)(b), and A.R.S. §20-461(A)(6)

<u>Claim Number</u>	<u>Date of Loss</u>	<u>Taxes Owed</u>	<u>Fees Owed</u>	<u>Total Owed</u>
06477612-01	06/20/98	\$	\$ 13.75	\$ 13.75
06461068-03	03/22/99	47.25	9.75	57.00
06463589-01	06/14/99	26.25	9.75	36.00
06441053-02	07/11/98		13.75	13.75
12074617-02	02/09/99		13.75	13.75
06581407-01	05/23/99		13.75	13.75
06513203-01	11/26/98		13.75	13.75
06412668-02	12/11/98		13.75	13.75
06517290-02	10/07/98	15.50	1.75	17.25
06436426-01	05/07/98	39.55	1.75	<u>41.30</u>
				\$ 234.05

EXHIBIT B
FAILURE TO PAY THE CORRECT SALES TAX, TITLE REGISTRATION FEES AND
AIR QUALITY FEES ON THIRD PARTY TOTAL LOSS SETTLEMENTS

VIOLATIONS OF A.R.S. § 20-461(A)(6)

<u>Claim Number</u>	<u>Date of Loss</u>	<u>Taxes Owed</u>	<u>Fees Owed</u>	<u>Total Owed</u>
06562590-01	01/29/99	\$ 24.50	\$ 13.75	\$ 38.25
06395845-01	01/03/99	29.75	9.75	39.50
06589483-01	01/30/99	14.00	9.75	23.75
06586333-01	01/21/99	59.50	9.75	69.25
06571496-01	05/05/99	12.34	9.75	22.09
06540450-01	11/14/98	56.00	9.75	65.75
06638164-01	05/17/99	19.25	9.75	29.00
30001921-03	12/19/96		13.75	13.75
06273984-01	09/27/97	37.11	9.75	46.86
06474175-01	06/09/98	12.10	9.75	21.85
06418016-04	06/23/99	70.00	9.75	79.75
06585046-01	01/12/99	<u>106.07</u>	<u> </u>	<u>106.07</u>
				\$555.87

1 **CONSENT TO ORDER**

2 1. American Premier Insurance Company has reviewed the attached
3 Consent Order.

4 2. American Premier Insurance Company admits the jurisdiction of the
5 Director of Insurance, State of Arizona, admits the foregoing Findings of Fact, and
6 consents to the entry of the Conclusions of Law and Order.

7 3. American Premier Insurance Company is aware of its right to a hearing,
8 at which it may be represented by counsel, present evidence and cross-examine
9 witnesses. American Premier Insurance Company irrevocably waives its right to such
10 notice and hearing and to any court appeals related to this Order.

11 4. American Premier Insurance Company states that no promise of any kind
12 or nature whatsoever was made to it to induce it to enter into this Order and that it has
13 entered into this Order voluntarily.

14 5. American Premier Insurance Company acknowledges that the
15 acceptance of this Order by the Director of Insurance, State of Arizona, is solely to
16 settle this matter against it and does not preclude any other agency or officer of this
17 state or its subdivisions or any other person from any other civil or criminal
18 proceedings, whether civil, criminal, or administrative, as may be appropriate now or in
19 the future.

20 6. Edward B. Stevens, who holds the office of
21 President of American Premier Insurance Company, is
22 authorized to enter into this Order for it and on its behalf.

23 **AMERICAN PREMIER INSURANCE COMPANY**

24 2/21/01

25 Date

By: ES Stevens

1 COPY of the foregoing mailed/delivered
2 this 1st day of March 2001, to:

3 Sara Begley

Deputy Director

4 Mary Butterfield

Assistant Director

5 Consumer Affairs Division

6 Paul J. Hogan

Chief Market Conduct Examiner

7 Market Conduct Examinations Section

8 Deloris E. Williamson

Assistant Director

9 Rates & Regulations Division

10 Steve Ferguson

Assistant Director

11 Financial Affairs Division

12 Alexandra Shafer

Assistant Director

13 Life and Health Division

Nancy Howse

14 Chief Financial Examiner

Terry Cooper

15 Fraud Unit Chief

16 DEPARTMENT OF INSURANCE

2910 North 44th Street, Second Floor

17 Phoenix, AZ 85018

18 AMERICAN PREMIER INSURANCE COMPANY

19 Mr. Edward B. Stevens, President

20 3169 Holcomb Bridge Road

21 Norcross, GA 30071

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