

NOV 7 2002

STATE OF ARIZONA

DEPT. OF INSURANCE  
BY 

DEPARTMENT OF INSURANCE

In the Matter of:

) Docket No. 02A-190-INS

CSE SAFEGUARD INSURANCE COMPANY,

) **CONSENT ORDER**

NAIC # 18953,

Respondent.

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of CSE Safeguard Insurance Company ("CSE"). In the Report of Examination of the Market Conduct Affairs of CSE, the Examiners allege that CSE violated A.R.S. §§20-461, 20-1632.01, A.A.C. R20-6-801 and Consent Order, Docket No. 00A-050-INS, dated March 30, 2000.

CSE 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. CSE 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 CSE. The on-site examination covered the time period from January 1, 2001 to December 31, 2001 and was concluded on June 28, 2002. Based on their findings, the Examiners prepared the "Report of Examination of the Market Conduct Affairs of CSE Safeguard Insurance Company" dated June 28, 2002.

1           3.     The Department previously conducted a market conduct examination of  
2 CSE. The on-site examination was concluded as of December 15, 1995. As a result, a  
3 Consent Order, Docket No. 00A-050-INS, (the "2000 Order") was filed by the Director  
4 on March 30, 2000. The 2000 Order stated in pertinent part as follows:

5           Respondents shall cease and desist from...failing to distribute to the first party  
6 claimant a proportional share of the recoveries from third parties by subrogation  
7 of the claims; failing to include all applicable taxes, license fees and other fees  
incident to transfer of evidence of ownership of comparable automobiles.

8           4.     The Examiners reviewed 63 of 1,044 personal automobile policy files  
9 cancelled for non-payment of premium during the time frame of the examination and  
10 found that the Company failed to include notice of the policyholder's right to complain  
11 to the Director in 21 cancellation notices.

12           5.     The Examiners reviewed 44 of 44 first party automobile total loss claim  
13 files and 16 of 16 third party automobile total loss claim files processed by the  
14 Company during the time frame of the Examination and found as follows:

15           a.     CSE failed to pay the correct amount of taxes and other fees on 25  
16 claims.

17           b.     CSE failed to treat the disposition of the third party claimants'  
18 salvage as a separate and distinct transaction from the settlement of the third party  
19 claimants' automobile total loss on 16 claims.

20           6.     CSE's failure to pay all taxes and fees to first and third party automobile  
21 total loss claimants resulted in 15 claims being underpaid a total of \$355.79. CSE's  
22 failure to return to insureds a proportional share of funds on those claims where the  
23 Company was successful in subrogation resulted in two insureds not being paid a total  
24 of \$500.00. The Company has since paid these two insureds. CSE's failure to rate its  
25 homeowners' policies according to its filed rates and rules resulted in two insureds

1 being overcharged a total of \$363.00.

2 **CONCLUSIONS OF LAW**

3 1. CSE violated A.R.S. §20-1632.01(B) by failing to include notice of the  
4 right to complain to the Director in its automobile cancellation notices.

5 2. CSE violated A.A.C. R20-6-801(H)(1)(b), A.R.S §20-461(A)(6) and the  
6 2000 Order by not paying all applicable taxes and fees on first party automobile total  
7 losses.

8 3. CSE violated A.R.S §20-461(A)(6) and the 2000 Order by not paying all  
9 applicable taxes and fees on third party automobile total losses.

10 4. CSE violated A.R.S. §20-461(A)(6) by failing to effect prompt and fair  
11 settlement by not treating the disposition of the third party claimants' salvage as a  
12 separate and distinct transaction from the settlement of the third party claimants'  
13 automobile total loss.

14 5. Grounds exist for the entry of the following Order in accordance with  
15 A.R.S. §§ 20-220 and 20-456.

16 **ORDER**

17 **IT IS HEREBY ORDERED THAT:**

18 1. CSE shall cease and desist from:

19 a. Failing to include notice of the right to complain to the Director in  
20 personal automobile policy cancellation notices.

21 b. Failing to pay all applicable taxes and fees on first and third party  
22 automobile total losses.

23 c. Failing to treat the disposition of the third party claimants' salvage  
24 as a separate and distinct transaction from the settlement of the third party claimants'  
25 automobile total loss.

1           2.     Within 90 days of the filed date of this Order, CSE shall submit to the  
2 Arizona Department of Insurance, for approval, evidence that corrections have been  
3 implemented and communicated to the appropriate personnel, regarding the issues  
4 outlined in Paragraph 1 of the Order section of this Consent Order. Evidence of  
5 corrective action and communication thereof includes, but is not limited to, memos,  
6 bulletins, E-mails, correspondence, procedures manuals, print screens, and training  
7 materials.

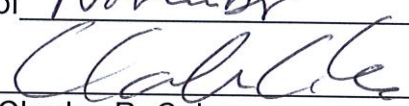
8           3.     Within 90 days of the filed date of this Order, CSE shall pay the 17  
9 insureds listed in Exhibit A of this Order \$718.79, plus interest at the rate of ten percent  
10 per annum. A letter previously approved by the Director shall accompany all  
11 payments. A list of payments, giving the name and address of each party paid, the  
12 amount of the payment, the amount of interest paid, and the date of payment, shall be  
13 provided to the Department within 90 days of the filed date of this Order.

14           4.     The Department shall be permitted, through authorized representatives,  
15 to verify that CSE has complied with all provisions of this Order.

16           5.     CSE shall pay a civil penalty of \$9,500.00 to the Director for remission to  
17 the State Treasurer for deposit in the State General Fund in accordance with A.R.S. §§  
18 20-220(B) and 20-456. The civil penalty shall be provided to the Market Conduct  
19 Examination Section of the Department prior to the filing of this Order.

20           6.     The Report of Examination of the Market Conduct Affairs of CSE  
21 Safeguard Insurance Company as of June 28, 2002 shall be filed with the Department  
22 upon the filing of this Order.

23 DATED at Phoenix, AZ this 7<sup>th</sup> day of November, 2002.

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25 \_\_\_\_\_  
Charles R. Cohen  
Director of Insurance

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**EXHIBIT A**

FIRST AND THIRD PARTY AUTOMOBILE TOTAL LOSS SETTLEMENTS  
FAILED TO INCLUDE ALL APPLICABLE TAXES AND OTHER FEES

<u>Claim Number</u>	<u>Taxes &amp; Other Fees Due Insured</u>
325671	\$14.56
334773	\$13.75
326816	\$13.75
327321	\$13.75
328813	\$13.75
330019	\$13.75
336396	\$13.75
332579	\$13.75
331129	\$13.75
331278	\$13.75
339404	\$13.75
334183	\$13.75
334092	\$13.76
333939	\$13.75
332262	\$13.75
332216	\$13.75
325671	\$13.97
332579	\$13.75
338398	\$13.75
334551	\$13.75
334549	\$13.75
336265	\$24.75
325973	\$13.75
329972	\$13.75
331713	<u>\$13.75</u>
<b>Total</b>	<b>\$355.79</b>

PREMIUM OVERCHARGES

<u>Policy Number</u>	<u>Amount</u>
AZH8011702	\$353.00
AZH0608940	<u>\$10.00</u>
<b>Total</b>	<b>\$363.00</b>

**CONSENT TO ORDER**

1  
2 1. CSE Safeguard Insurance Company has reviewed the foregoing Order.

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

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

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

13 5. CSE Safeguard Insurance Company acknowledges that the acceptance  
14 of this Order by the Director of the Arizona Department of Insurance is solely for the  
15 purpose of settling this matter and does not preclude any other agency or officer of this  
16 state or its subdivisions or any other person from instituting proceedings, whether civil,  
17 criminal, or administrative, as may be appropriate now or in the future.

18 6. Gregory Parini, who holds the office of  
19 Vice President of CSE Safeguard Insurance Company, is authorized  
20 to enter into this Order for them and on their behalf.

21 **CSE SAFEGUARD INSURANCE COMPANY**

22 10-30-02  
23 Date

24 By Gregory Parini  
25

1 **COPY of the foregoing mailed/delivered**

2 This \_\_\_\_\_ 7<sup>th</sup> \_\_\_\_\_ day of \_\_\_\_\_ November \_\_\_\_\_, 2002, to:

- 3
- 4 Sara Begley  
5 Deputy Director
- 6 Mary Butterfield  
7 Assistant Director  
8 Consumer Affairs Division
- 9 Paul J. Hogan  
10 Chief Market Conduct Examiner
- 11 Deloris E. Williamson  
12 Assistant Director  
13 Rates & Regulations Division
- 14 Steve Ferguson  
15 Assistant Director  
16 Financial Affairs Division
- 17 Alan Griffieth  
18 Chief Financial Examiner
- 19 Alexandra Shafer  
20 Assistant Director  
21 Life & Health Division
- 22 Terry L Cooper  
23 Fraud Unit Chief

24 DEPARTMENT OF INSURANCE  
25 2910 North 44<sup>th</sup> Street, Second Floor  
Phoenix, AZ 85018

Greg Parini, Vice President  
CSE Safeguard Insurance Company  
2121 North California Blvd.  
Walnut Creek, CA 94596-3572

