

1 unacceptable driver, unacceptable vehicle, and information requested not
2 received.

3 4. The Examiners reviewed all 57 first party automobile total loss
4 claims settled by Midland Risk, with loss dates from April 3, 1993 through
5 March 7, 1995. As to these, Midland Risk failed to:

6 a. advise two claimants (4%) of the full amounts to which they
7 were entitled under the provisions of their policies and pay the full
8 amounts to settle the claims. One claimant was not notified that he had
9 coverage for transportation expenses; the second claimant was not notified
10 that Midland Risk would cover pre-settlement storage expenses. Midland
11 Risk has since paid the latter claimant in the amount of the storage
12 expenses incurred, plus interest.

13 b. pay one claim (2%) within 30 days of the receipt of all
14 information necessary for claim adjudication and did not pay interest to the
15 claimant on the amount of the claim. Interest due has been paid in full.

16 5. The Examiners reviewed 171 third party personal auto claims
17 settled by Midland Risk. As to these, Midland Risk failed to:

18 a. complete the investigation of nine claims (5%) within 30 days
19 of notification of the claims.

20 b. respond to seven written communications from claimants (4%)
21 within 10 working days.

22 c. promptly settle 17 claims (10%).

23 d. offer a fair settlement for five claims (3%).

24 e. affirm or deny coverage on one claim (0.6%) within a
25 reasonable time.

26 6. Midland Risk failed to respond within 15 working days to three
27 inquiries from the Department pertaining to claims.

28

1 receipt of acceptable proofs of loss which contained all information
2 necessary for claim adjudication.

3 4. Midland Risk violated A.A.C. R20-6-801(F) and A.R.S. §
4 20-461(A)(3) by failing to complete the investigation of claims within
5 thirty (30) days after notification when the claim files were not documented
6 to show that investigation could not reasonably have been completed within
7 that time.

8 5. Midland Risk violated A.A.C. R20-6-801(E)(3) and A.R.S. §
9 20-461(A)(2) by failing to respond to written communications from claimants
10 within 10 working days.

11 6. Midland Risk violated A.R.S. § 20-461(A)(6) by not attempting in
12 good faith to effectuate prompt, reasonable settlements of claims in which
13 liability had become reasonably clear.

14 7. Midland Risk violated A.A.C. R20-6-801(E)(2) by failing to
15 respond within 15 working days to three inquiries from the Department
16 pertaining to claims.

17 8. Midland Risk violated A.R.S. § 20-461(A)(4) by denying liability
18 on three claims without conducting a reasonable investigation into the facts
19 of the claims.

20 9. Midland Risk violated A.A.C. R20-6-801(E)(1) by failing to
21 acknowledge the receipt of a claim within 10 working says.

22 10. Grounds exist for the entry of the provisions of the following
23 Order.

24 ORDER

25 Respondents, having admitted the jurisdiction of the Director to enter
26 this Order, having waived the Notice of Hearing and the hearing, having
27 waived any and all rights to appeal this Order, and having consented to the
28 entry of this Order:

1 **IT IS ORDERED THAT:**

2 1. Respondents shall cease and desist from:

3 a. cancelling policies of personal auto insurance in effect for
4 sixty days, for reasons other than those permitted by A.R.S. § 20-1631(C);

5 b. failing to complete the investigation of claims within thirty
6 (30) days after notification unless the claim files are documented to show
7 that the investigation could not reasonably have been completed within that
8 time.

9 c. failing to attempt in good faith to effectuate prompt,
10 reasonable settlements of claims in which liability has become reasonably
11 clear.

12 2. Within 60 days of the filed date of this Order, Midland Risk shall
13 submit to the Director a written action plan, including procedural changes
14 and copies of bulletins sent to employees, agents, appraisers, and
15 adjusters, to monitor the following:

16 a. that personal automobile policies which have been in effect
17 for sixty days are cancelled or non-renewed for only the reasons permitted
18 by A.R.S. § 20-1631(C).

19 b. that all claims investigations be completed within thirty
20 days after notification of claims and that, if not completed, the claim file
21 be documented to explain why the investigation could not reasonably have
22 been completed within 30 days.

23 c. that Midland Risk will attempt in good faith to effectuate
24 prompt, reasonable settlements of claims in which liability has become
25 reasonably clear.

26 3. Within 30 days of the filed date of this Order, Midland Risk shall
27 offer to reinstate the policies listed in Exhibit 1 of the Report of
28 Examination (attached to this Order as Exhibit A) by letters to the insureds

1 in a form acceptable to the Director. A list of all insureds to whom this
2 letter is mailed shall be filed with the Department when all letters have
3 been mailed.

4 4. Within 60 days of the filed date of this Order, Midland Risk shall
5 perform a self-audit of all policies in effect for at least 60 days which
6 have been cancelled or non-renewed from March 22, 1995 through the filed
7 date of this Order for reasons other than nonpayment of premium,
8 cancelled. Midland Risk shall identify all instances where policies have
9 been cancelled or non-renewed for reasons not permitted by A.R.S. §
10 20-1631(C) and shall report the results of the self-audit to the
11 Department. Within 60 days of the filed date of this Order, Midland Risk
12 shall offer to reinstate all policies which have been terminated as
13 described above, by letters to the insureds in a form acceptable to the
14 Director. A list of all insureds to whom this letter is mailed shall be
15 filed with the Department when all letters have been mailed.

16 5. Midland Risk has paid interest of \$206.46 to the claimant of Claim
17 #AZ5329.

18 6. Midland Risk has paid \$540.00 to the claimant of Claim #AZ8942, as
19 restitution for pre-settlement storage of the damaged automobile, plus
20 interest of \$81.00, totalling \$621.00.

21 7. Within 30 days of the filed date of this Order, Midland Risk shall
22 reopen Claim #AZ5329 to determine the amount owing the claimant for
23 transportation expense. Midland Risk shall pay the amount determined to be
24 owing, plus interest at the rate of ten percent per annum from January 6,
25 1994 through the date the amount owing is paid. The payment shall be
26 accompanied by a letter to the insured in a form acceptable to the
27 Director. Documentation of the payment, giving the name and address of
28 the party paid, the amount of the payment, the amount of interest paid, and

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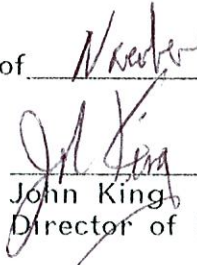
the date of payment, shall be provided to the Department within 40 days of the filed date of this Order.

8. The Department shall be permitted, through authorized representatives, to verify that Midland Risk has complied with all provisions of this Order.

9. Midland Risk shall pay a civil penalty of \$3,500 to the Director for deposit in the State General Fund in accordance with A.R.S. § 20-220(B). This civil penalty shall be provided to the Market Conduct Examinations Division of the ADOI prior to the filing of this Order.

10. The Report of Examination of the Market Conduct Affairs of Respondent as of July 5, 1995, including the letter of objection submitted by Midland Risk, shall be filed with the Department after the Director has filed this Order.

DATED at Phoenix, Arizona this 27th day of November, 1996.



John King
Director of Insurance

CONSENT TO ORDER

1
2 1. Respondent, Midland Risk Insurance Company, has reviewed the
3 attached Order.

4 2. Respondent is aware of its right to a hearing at which hearing
5 Respondent may be represented by counsel, present evidence and
6 cross-examine witnesses. Respondent has irrevocably waived its right to
7 such public hearing and to any court appeals relating thereto.

8 3. Respondent admits the jurisdiction of the Arizona Department of
9 Insurance and the Director of the Arizona Department of Insurance, and
10 consents to the entry of this Consent Order.

11 4. Respondent states that no promise of any kind or nature has been
12 made to induce it to enter into this Order and that it has entered into this
13 Order voluntarily.

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

20 6. James E. Farmer, who holds the office of
21 Executive Vice President of Midland Risk Insurance Company, is
22 authorized to enter into this Order for it and on its behalf.

23 November 11, 1996
24 (Date)



MIDLAND RISK INSURANCE COMPANY

1 COPY of the foregoing mailed/delivered
this 27th day of November , 1996, to:

2 Charles R. Cohen
3 Deputy Director
4 Gregory Y. Harris
5 Executive Assistant Director
6 Erin H. Klug
7 Chief Market Conduct Examiner
8 Saul R. Saulson
9 Examinations Supervisor
10 Market Conduct Examinations Division
11 Mary Butterfield
12 Assistant Director
13 Life & Health Division
14 Deloris E. Williamson
15 Assistant Director
16 Rates & Regulations Division
17 Gary Torticill
18 Assistant Director and Chief Financial Examiner
19 Corporate & Financial Affairs Division
20 Cathy O'Neil
21 Assistant Director
22 Consumer Services Division
23 John Gagne
24 Assistant Director
25 Investigations Division
26 F. Duane Avey
27 Fraud Unit Chief
28 Dean Ehler
Supervisor
Property and Casualty Section

17 DEPARTMENT OF INSURANCE
18 2910 North 44th Street, Suite 210
19 Phoenix, AZ 85018

19 James E. Farmer, Vice President
20 Midland Risk Insurance Company
21 825 Crossover Lane
22 Memphis, Tennessee 38117

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MIDLAND RISK
Cancellation Criticisms
Violation of A.R.S § 20-1631(C)

<u>Policy Number</u>	<u>Policy Inception</u>	<u>Cancellation Reason</u>
AZP140367	12-20-94	Info Req't Not Rec.
AZPA71283	06-30-93	" " " "
AZPA81751	10-02-93	" " " "
AZP104722	12-28-94	" " " "
AZP104343	04-18-94	" " " "
AZPA86322	12-11-93	" " " "
AZPA68712	06-19-93	" " " "
AZP104458	04-15-94	" " " "
AZP144600	01-14-95	" " " "
AZPA90915	01-19-94	" " " "
AZP123442	08-10-94	" " " "
AZPA82745	10-19-93	Unacceptable Vehicle
AZPA70049	06-21-93	" "
AZP119785	07-18-94	" "
AZPA86271	12-10-93	Unacceptable Driver
AZP139250	12-16-94	" "

Total 16



CLAIMS PROCEDURES AND PROCESSING

Arizona claims are processed and paid in the Company's Tempe, Arizona office located at 1400 East Southern. All claims occurring in Arizona and California are handled from this office.

The claims staff in Tempe currently numbers 52, which includes those handling California claims.

Claims are sometimes reported by the Company's independent agents or its insureds. However, the majority of claims are reported by third party claimants or their attorneys.

Claims are handled by staff adjusters. **Independent adjusters** are only utilized when investigation activities outside the office are required.

Midland Risk's Arizona premium increased by over 75% from 1992 through 1995, and direct losses incurred more than tripled. The claims management staff indicated to the Examiners that staffing had not kept pace with the volume of claims. During the last few months Midland Risk has hired additional experienced claims adjusters from Companies who are closing their Phoenix claims operations. The current staff of 52 is twice the number of claims personnel of a year ago.

SUBROGATION

Subrogation, where warranted, is actively pursued and the first consideration of recovered funds is to return the insured's deductible or the pro-rated amount.