



1 Examination ("Report") was written. The Examiners reviewed open  
2 and closed claim files from June 17, 1992, through July 2, 1994  
3 and underwriting, rating and cancellation files were reviewed  
4 for the period of January 23, 1992 through December 9, 1994.

5 3. Respondent failed to make all records relating to the  
6 subject of the examination requested by the Examiners including  
7 producer commission statements, procedures, instructions or  
8 correspondence, freely accessible to the Examiners.

9 4. Respondent failed to file its list of agents prior to  
10 January 30th for the years 1992, 1993 and 1994.

11 5. Respondent issued twenty-six (26) private passenger  
12 automobile policies and one (1) motorcycle policy for policy  
13 terms other than those set forth in Respondent's filed Arizona  
14 Rate Guides.

15 6. Respondent issued nine (9) private passenger  
16 automobile policies and one (1) private passenger motorcycle  
17 policy using rates other than those filed with the ADOI.

18 7. Respondent issued two (2) homeowner, one (1) mobile  
19 home and four (4) dwelling policies but failed to issue the  
20 policies in accordance with its filed rates.

21 8. Respondent cancelled twenty (20) private passenger  
22 automobile policies after the policies had been in effect over  
23 sixty (60) days, for reasons that were not consistent with  
24 Arizona statutes.

25 9. Respondent cancelled sixty-one (61) private passenger  
26 automobile policies but failed to send the notice of  
27 cancellation to the insureds at least ten days prior to the  
28 effective date of the cancellations.

1           10. Respondent issued eighty-two (82) private passenger  
2 automobile cancellations but failed to include notice of the  
3 insureds' right to complain to the Director or their possible  
4 eligibility for insurance through the assigned risk plan.

5           11. Respondent cancelled seventy-seven (77) private  
6 passenger automobile policies, which were not financed, for  
7 underwriting reasons, but the notices failed to include or be  
8 accompanied by the return of unearned premium. The examiners  
9 found this to be the case on all private passenger automobile  
10 cancellations, where the policies were not financed and return  
11 premiums were due to the insureds.

12           12. Respondent cancelled forty-six (46) automobile  
13 policies prior to policy issuance but failed to give the  
14 insureds the required ten (10) day notice prior to cancellation.  
15 On six (6) of these policies, Respondent failed to give the  
16 specific reasons for the cancellations.

17           13. Respondent cancelled or non-renewed 172 private  
18 passenger automobile policies for failure to make the premium  
19 payment but failed to send the notice of cancellation after the  
20 seven (7) day grace period.

21           14. Respondent provided the examiners with 292 notices  
22 that were titled "NOTICE OF EXPIRATION AND NONRENEWAL". These  
23 notices, sent out after December 30, 1993 advised insureds of  
24 policy expiration dates from November 28, 1993 through December  
25 31, 1993 rather than the effective dates of cancellation.

26           15. Forty-one (41) of the private passenger automobile  
27 non-renewal files reviewed by the Examiners did not contain any  
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1 evidence that the policies had been non-renewed or that offers  
2 of renewal had been sent to the insureds.

3 16. Respondent cancelled one (1) mobile home policy within  
4 sixty (60) days of policy inception without evidence in the file  
5 that the \$141.00 unearned premium was refunded to the insured.

6 17. Respondent denied two (2) automobile claims which  
7 occurred during the seven (7) day grace periods following the  
8 premium due dates. Notices of cancellation were not sent to the  
9 insureds at the end of the seven (7) day grace period.

10 18. Respondent denied one (1) mobile home claim where the  
11 comprehensive policy provisions provided coverage for the risks,  
12 and denied a second mobile home claim without determining that  
13 the claim did not meet the conditions of the policy.

14 19. Respondent failed to pay two (2) third party claims  
15 within thirty (30) days and to acknowledge three (3) third party  
16 claims within ten (10) working days.

17 20. Respondent failed to issue three (3) first party  
18 automobile total loss claim payment checks within thirty (30)  
19 days of receipt of an acceptable proof of loss.

20 21. Respondent failed to pay the full amount of sales  
21 taxes and license fees due on four (4) first-party automobile  
22 total loss claims. A total of \$461.62 was due these claimants,  
23 but was not paid.

24 22. Respondent failed to send the renewal billing to an  
25 insured and cancelled his policy after the insured had paid the  
26 premium to his agent. The agent sent the premium to the prior  
27 general agent of Respondent as no new address had been  
28 . . . . .

1 furnished to the agent. Respondent denied a claim which was  
2 paid by the insured's agent from his own funds.

3 23. Respondent has surrendered, to the Director, its  
4 Certificate of Authority to transact the business of insurance  
5 in the State of Arizona.

6 CONCLUSIONS OF LAW

7 1. By failing to make freely accessible to the Examiners  
8 documents relating to the subject of the examination, Respondent  
9 violated A.R.S. § 20-157(A).

10 2. By failing to file its list of agents with the ADOI  
11 for the years 1992, 1993 and 1994, Respondent violated A.R.S. §  
12 20-297.

13 3. By offering policies with terms that were not  
14 consistent with its filing at the ADOI, by failing to bill its  
15 insureds at least fifteen (15) days in advance of the policy  
16 expiration date as stated in its rules filed at the ADOI, and by  
17 issuing personal lines policies at rates other than those filed  
18 at the ADOI, Respondent violated A.R.S. § 20-385(A).

19 4. By issuing policies for terms other than the terms  
20 shown on the applications that the insureds agreed to and  
21 signed, Respondent violated A.R.S. § 20-443(1).

22 5. By failing to provide all of its insureds ample time  
23 to pay renewal billings, Respondent violated A.R.S. 20-448(C).

24 6. By cancelling private passenger automobile policies  
25 that had been in effect over sixty (60) days, for reasons which  
26 were not consistent with statute, Respondent violated A.R.S. §  
27 20-1631(C).

28 . . . . .

1           7. By failing to send notices of automobile cancellation  
2 on 107 private passenger automobile policies at least ten (10)  
3 days prior to the effective date of the cancellation, Respondent  
4 violated A.R.S. § 20-1632(A).

5           8. By failing to provide the specific reasons for the  
6 cancellation of twenty-six (26) private passenger automobile  
7 policies and to advise ninety-one (91) insureds of their right  
8 to complain to the director and possible eligibility for the  
9 automobile assigned risk plan, Respondent violated A.R.S. §  
10 20-1632(A)(1) and (A)(2).

11           9. By failing to maintain documentation in the files so  
12 the Examiners were able to ascertain whether private passenger  
13 automobile policies were renewed or nonrenewed, Respondent  
14 violated A.R.S. § 20-1631(C).

15           10. By failing to refund the unearned premium due with the  
16 notices of cancellation on all private passenger automobile  
17 policies that had not been financed, Respondent violated A.R.S.  
18 § 20-1632(A)(3).

19           11. By failing to send notices of cancellation after the  
20 seven (7) day grace period on 482 private passenger automobile  
21 policies that were non-renewed due to non-payment of premium,  
22 Respondent violated A.R.S. § 20-1632.01(B).

23           12. By failing to fully disclose to four (4) first party  
24 claimants all pertinent benefits, coverages and other provisions  
25 of its policies, Respondent violated A.A.C. R4-14-801(D)(1).

26           13. By failing to acknowledge three (3) first party claims  
27 within ten (10) working days, Respondent violated A.A.C.  
28 R4-14-801(E).



1                   **IT IS HEREBY ORDERED THAT:**

2           1.     Respondent shall deposit, by July 10, 1995, with the  
3     State Treasurer securities acceptable to the Director in an  
4     amount equal to its liabilities, as computed by the Director,  
5     including its reserves as required by A.R.S. Title 20 in respect  
6     to its business in this state for the sole benefit of its  
7     policyholders and creditors who are residents of this state,  
8     pursuant to A.R.S. § 20-217(D). Respondent shall apply to the  
9     Director to terminate its Certificate of Authority and for  
10    withdrawal from the insurance business in this State, in  
11    accordance with A.R.S. § 20-217 and A.A.C. R20-6-303. In the  
12    event that by or before July 10, 1995 Respondent has failed to  
13    make a complete and sufficient application to so terminate and  
14    withdraw, or in the event that the Director duly denies  
15    Respondent's application in whole or in part, the Department  
16    shall have the right to re-open the subject Examination, to  
17    re-examine Respondent and to take any appropriate regulatory  
18    action arising therefrom.

19           2.     Respondent pay to the insureds identified in Exhibit  
20    29 of the Report the sum of \$461.62 in unpaid sales taxes and  
21    fees plus, interest at the rate of ten percent (10%) per annum  
22    from the date the claim was received by the insurer until  
23    the date of payment. The payments shall be accompanied by a  
24    letter acceptable to the Director.

25           3.     Respondent shall reopen the four (4) claim files  
26    indentified in the Claim Procedures and Processing section of  
27    the Report and adjust the losses in a manner consistent with the  
28    policy language. Copies of all correspondence relating to the



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adjustment of these losses shall be provided to the Director within sixty (60) days of the filed date of the Order. All loss payments shall include interest at the rate of ten percent (10%) per annum from the date the claim was received to the date of payment.

4. Respondent shall reimburse the producer on Sutter automobile policy SA112943 the \$808.95 that the agent was required to pay because Sutter denied a third party claim after failing to offer to renew the policy in a timely manner. Respondent shall pay interest at the rate of ten percent (10%) per annum from the date the agent made the payment to the date of reimbursement by Respondent.

5. Respondent shall reimburse \$164.00 in premium overcharges to the insureds identified on page 9 of the Report. Respondent shall pay interest in the amount of ten percent (10%) per annum from the date of the overcharge to the date of the reimbursement. The payments to the insureds shall be accompanied by a letter acceptable to the Director.

6. A list of the payments made pursuant to Paragraphs 2 through 5 giving the name and address of each party to whom payments are made, the policy or claim number, the base amount of the payment, the amount of interest paid and the date of payment shall be provided to the ADOI within thirty (30) days of the filed date of this Order.

7. The Department shall be permitted, through authorized representatives, to verify Respondent has fully complied with . . . . .

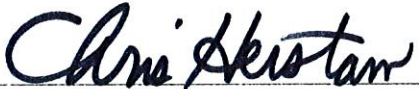
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all requirements of this Order, and the Director may separately order Respondent to comply.

8. Respondent shall pay a civil penalty of Fifteen Thousand Dollars (\$15,000.00) to the Director for remission to the State Treasurer for deposit in the State General Fund in accordance with A.R.S. §20-220(B). Said amount shall be provided to the Market Conduct Examinations Division of the ADOI on or before July 10, 1995.

9. The March 23, 1995 Report of Examination, to include any objections to the Report by Respondents, shall be filed with the ADOI.

DATED at Phoenix, Arizona this 19th day of July, 1995.



Chris Herstam  
Director of Insurance

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CONSENT TO ORDER

1. Respondent has reviewed the foregoing Consent Order.

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

3. Respondent admits the jurisdiction of the Director and consent to the entry of this Consent Order.

4. Respondent states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Consent Order and that it has entered into this Consent Order voluntarily.

5. Respondent acknowledges that the acceptance of this Order by the Director is solely for the purpose of settling this matter against it and does not preclude any other agency or officer of this state or subdivision thereof from instituting other civil or criminal proceedings as may be appropriate now or in the future.

6. ROGER N. KLEINWECKER represents that as PRESIDENT he is an officer of Respondent and that, as such, he is authorized by it to enter into this Consent Order on its behalf.

SUTTER INSURANCE COMPANY

7/6/95  
(Date)

By

Roger N. Kleinwecker

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COPY of the foregoing mailed/delivered  
this 19th day of July , 1995, to:

- Charles R. Cohen  
Deputy Director
- Gregory Y. Harris  
Executive Assistant Director
- Lewis D. Kowal  
Chief Administrative Law Judge
- Erin Klüg  
Executive Assistant to the Director
- Jimmy Potts  
Market Conduct Examination Coordinator  
Examinations Division
- Saul Saulson  
Supervisor  
Examinations Section
- Dean Ehler  
Supervisor  
Property and Casualty Section
- Deloris E. Williamson  
Assistant Director  
Rates & Regulations Division
- Gary Torticill  
Assistant Director and Chief Financial Examiner  
Corporate & Financial Affairs Division
- Cathy O,Neil  
Assistant Director  
Consumer Services and Investigations

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

Roger Kleinecke  
Sutter Insurance Company  
c/o J. Michael Low  
low & Childers PC  
2999 North 44th Street Suite 250  
Phoenix, AZ 85018

