

SEP 22 2000

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY CB

) Docket No. 00A-149-INS

In the Matter of:

SAFECO INSURANCE COMPANY OF AMERICA,

NAIC #24740;

SAFECO INSURANCE COMPANY OF ILLINOIS,

NAIC #39012;

SAFECO NATIONAL INSURANCE COMPANY,

NAIC #24759;

FIRST NATIONAL INSURANCE COMPANY OF AMERICA,

NAIC #24724; and

GENERAL INSURANCE COMPANY OF AMERICA,

NAIC #24732;

Respondents

) CONSENT ORDER

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of Safeco Insurance Company of America, Safeco Insurance Company of Illinois, Safeco National Insurance Company, First National Insurance Company of America, and General Insurance Company of America. These are referred to collectively as "Respondents." The Report of the Examination of the Market Conduct Affairs alleges that Respondents have violated A.R.S. §§ 20-263, 20-357, 20-385, 20-400.01, 20-448, 20-1631, 20-1632, 20-1632.01, 20-1652, 20-1674, 20-1676, 20-1677, 23-906, and an Order of the Director.

Respondents wish to resolve this matter without formal proceedings, admit that the following Findings of Fact are true, and consent to the entry of the following Conclusions of Law and Order.

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1 **FINDINGS OF FACT**

2 1. Respondents are authorized to transact property and casualty insurance
3 pursuant to Certificates of Authority issued by the Director. Safeco Insurance Company
4 of America, First National Insurance Company of America, and General Insurance
5 Company of America are authorized to transact workers' compensation insurance.

6 2. The Examiners were authorized by the Director to conduct a market
7 conduct examination of Respondents. The on-site examination was concluded on June
8 2, 1996. Based on the findings the Examiners prepared the "Report of Examination of
9 the Market Conduct Affairs of Respondents" dated July 19, 1996.

10 3. The Department previously conducted a market conduct examination of
11 Safeco Insurance Company of America, Safeco Insurance Company of Illinois, First
12 National Insurance Company of America, and General Insurance Company of America.

13 The on-site examination was concluded as of June 17, 1992. The Report of
14 Examination identified violations of the following statutes:

15 a. A.R.S. §§ 20-385(A) and 20-400.01(A), by developing premiums
16 for commercial auto policies in a manner not consistent with filings made by
17 Respondents with the Department.

18 b. A.R.S. § 20-400.01(A) and (B), by failing to adequately document
19 schedule rating credits and debits applied to commercial auto policies. In addition,
20 Safeco Insurance Company of America, First National Insurance Company of America,
21 and General Insurance Company of America also violated the 1988 Order; and,

22 c. A.R.S. § 20-1677(A), by failing to send written notices of premium
23 increase, change in deductible, or reduction in limits to commercial auto insureds sixty
24 (60) days before the expiration of their policies.

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1 d. A.R.S. § 20-1632(A)(2), by issuing notices of cancellation of
2 automobile policies which did not inform the insureds of their possible eligibility for the
3 automobile assigned risk plan;

4 As a result, a Consent Order (the "1993 Order"), was filed by the Director on
5 November 22, 1993, Docket No. 8236. The 1993 Order stated in part as follows:

6 SAFECO shall cease and desist from:

7 charging rates for commercial policies other than those filed with
8 the Department;

9 failing to include in notices of cancellation of personal and
10 commercial policies subject to A.R.S § 20-1631. . . notices of the named
11 insureds' right to complain to the Director of the cancellation and of
12 possible eligibility for the assigned risk plan;

13 from failing to document the facts supporting SR rating adjustments
14 used to adjust the full manual premium developed for the risks in all
15 commercial policies where such adjustments are utilized;

16 from failing to send written notices of premium increase, change in
17 deductible, or reduction in limits to commercial insureds at least sixty (60)
18 days before the expiration of their policies.

19 4. The Examiners reviewed 346 personal automobile policies issued by
20 Respondents which had effective dates from January 1, 1993 to July 19, 1996, and
21 found as follows:

22 a. Respondents canceled 34 policies for non-payment of premium
23 without sending notices of cancellation to the insureds on the effective dates of
24 cancellation after the seven-day grace period.

25 b. Respondents cancelled 21 policies for nonpayment of premium
without allowing the insured a grace period of seven days.

c. Respondents cancelled/nonrenewed 10 policies without notifying
the insureds of possible eligibility for coverage under the assigned risk plan.

1 d. Respondents increased the premiums of six policies as the result
2 of accidents, but did not document that the insureds were substantially at fault.

3 e. Respondents failed to apply the filed at-fault accident in rating one
4 policy.

5 f. Respondents cancelled one policy as the result of actions of a
6 driver other than the named insured, without notifying the named insured of the right to
7 retain the policy by agreeing in writing to exclude that driver from coverage.

8 g. Respondents denied a claim against personal automobile Policy
9 Y4593841 because the Company said the policy had been canceled for nonpayment.
10 However, the policy was still in force at the time of the accident due to the fact that no
11 cancellation notice was mailed after the grace period.

12 h. Respondents surcharged one policy for an at-fault accident,
13 although the responsible driver was no longer a member of the household. As a result
14 this insured paid \$189 more than he should have. The Respondents have paid \$189.00
15 to the insured.

16 5. The Examiners reviewed 181 homeowner, renter, and mobilehome
17 policies issued by Respondents which had effective dates from January 1, 1993 to July
18 19, 1996 and found as follows:

19 a. Respondents cancelled one policy which had been in effect for
20 more than 60 days for "premises condition," a reason other than those permitted by
21 A.R.S. § 20-1652(A).

22 b. Respondents nonrenewed three policies as the result of the
23 condition of the premises, but did not give the insureds the opportunity to remedy the
24 conditions as required by A.R.S. § 20-1652(B).

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1 c. The homeowner, renter, and mobilehome policies issued by
2 Respondents state that "When you have not paid the premium, whether payable to us
3 or to our agent or under any finance or credit plan, we may cancel at any time by
4 notifying you at least 20 days before the date cancellation takes effect." Respondents
5 failed to provide such notice in advance of 37 policy cancellations.

6 6. Workers' compensation insurers are required by statute to belong to a
7 rating organization and to adhere to its rates unless the insurer has filed deviations from
8 these rates. Safeco Insurance Company of America, First National Insurance Company
9 of America, and General Insurance Company of America are members of the National
10 Council on Compensation Insurance ("NCCI"), a duly licensed rating organization in
11 Arizona, which files rates with the Department on behalf of its members. Any reference
12 in this Order to Respondents' filed rates and rules includes rates and rules filed by the
13 NCCI on Respondents' behalf.

14 7. The NCCI's Schedule Rating Plan ("Plan") was approved for use in
15 Arizona July 8, 1982 by the Director. Effective October 1, 1988, the Plan was amended
16 to require insurers to include within each workers compensation policy file a completed
17 schedule rating worksheet and loss prevention survey. Respondents adopted the Plan
18 effective January 1, 1983.

19 8. The Examiners reviewed 90 workers compensation policies issued by
20 Respondents with effective dates from January 1, 1993 to July 19, 1996 and found as
21 follows:

22 a. Respondents excluded officers and partners from coverage under
23 13 policies, but did not include exclusion endorsements in the policy files.

24 b. Respondents specific individuals from coverage under seven
25 policies, but did not include signed right to rejection forms in the policy files.

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1 9. The Examiners reviewed 104 commercial package ("CP") policy files
2 issued by Respondents which had effective dates from January 1, 1993 to July 19,
3 1996, and found as follows:

4 a. Respondents failed to include any documentation in support of the
5 Schedule/IRPM credits and debits given on two policies.

6 b. Respondents failed to include adequate documentation in support
7 of the change in the amount of Schedule/IRPM credits given on 11 policies.

8 c. Respondents failed to document that the Schedule Rating/IRPM
9 Plan was considered for two eligible policies.

10 d. Respondents used unfiled detrend factors in calculating the
11 premiums of eight policies.

12 e. Respondents failed to send six insureds notices of premium
13 increase, change in deductible or reduction in limits or substantial reduction in coverage
14 at least sixty days before policy expiration.

15 f. Respondents failed to apply the filed Expense Modification Plan to
16 seven qualifying policies, although they applied the Expense Modification Plan to all
17 other qualifying policies. As a result, the insureds were charged a total of \$4,610 more
18 than insureds with substantially like insuring, risk and exposure factors, or expense
19 elements.

20 g. Respondents issued 16 policies which were rated according to an
21 unfiled revision of the ISO Commercial General Liability Loss Costs and Rules dated
22 12/94.

23 h. Respondents rated eight policies using "a" rates other than the "a"
24 rates filed with the Department. As a result, one insured was overcharged \$24.

25 i. Respondents rated 15 policies using an unfiled charged for
additional insureds.

1 j. Respondents rated 13 policies using an unfiled Expense
2 Modification Plan credit. As a result, 11 insureds paid a total of \$37,656 less than they
3 should have paid.

4 10. The Examiners reviewed 106 commercial automobile ("CA") policy files
5 issued by Respondents which had effective dates from January 1, 1993 to July 19,
6 1996. The Examiners issued 79 criticisms of these policies because:

7 a. Respondents failed to include adequate documentation in support
8 of the change in the amount of Schedule credits or debits given on 14 policies.

9 b. Respondents issued one policy in which the insured was eligible for
10 the IRPM Plan, without documenting that the insured had been given consideration for
11 the IRPM Plan.

12 c. Respondent failed to apply the Experience Rating Plan to three
13 qualifying policies. As a result, one insured was overcharged by \$715.00 and one
14 insured was undercharged by \$3,491.

15 d. Respondents used unfiled detrend factors in calculating the
16 premiums of 28 policies. As a result, 16 insureds were overcharged by a total of
17 \$14,999.

18 e. Respondents used a loss outside of the experience period to
19 determine the experience rating on one policy. The rate did not change as a result of
20 the inclusion of this loss.

21 f. Respondents failed to apply its unfiled Expense Modification Plan
22 to eight qualifying policies. As a result, seven insureds were charged a total of \$58,072
23 more than other insureds with substantially like insuring, risk and exposure factors, or
24 expense elements.

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1 g. Respondents rated one policy using a territory other than the
2 territory where the vehicles were garaged, and failed to re-rate the policy as requested
3 by the Examiners. However, they were able to determine that the insured was
4 undercharged.

5 h. Respondents classified the vehicles insured under one policy as
6 "commercial" vehicles rather than as "service" vehicles, according to Respondents filed
7 rules. As a result, the insured was overcharged by \$2,625.00.

8 i. Respondents rated 22 policies using an unfiled Expense
9 Modification Plan credit. As a result, 21 insureds paid a total of \$47,491 less than they
10 should have paid.

11 11. The Examiners reviewed 157 policy files issued by Respondents in the
12 Select Markets ("SM") program which had effective dates from January 1, 1993 to July
13 19, 1996. The Examiners issued 38 criticisms of these policies because:

14 a. Respondents failed to include adequate documentation in support
15 of the change in the amount of Schedule credits or debits given on one policy for two
16 terms.

17 b. Respondents failed to charge the experience surcharge for one
18 policy as required by its filed rates and rules. As a result, the insured was
19 undercharged by \$1,558.00.

20 c. Respondents charged an unfiled "new entity" charge to one insured
21 for two policy terms.

22 d. Respondents failed to send any notice of premium increase,
23 change in deductible or reduction in limits or substantial reduction in coverage to seven
24 insureds prior to the amendment of their policies.

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1 e. Respondents failed to send notices of premium increase, change in
2 deductible or reduction in limits or substantial reduction in coverage, at least sixty days
3 before policy expiration, to 18 insureds prior to the amendment of their policies.

4 f. Respondents failed to send notices of cancellation or nonrenewal
5 to eight insureds whose policies were cancelled or nonrenewed.

6 **CONCLUSIONS OF LAW**

7 1. Respondents violated A.R.S. § 20-1632.01(B) by failing to send notices of
8 cancellation or non-renewal to personal auto insureds for non-payment of premium after
9 the seven-day grace period on the effective date of cancellation.

10 2. Respondents violated A.R.S. § 20-1632.01(A) by failing to provide a grace
11 period of at least seven days for payment of premium prior to canceling or nonrenewing
12 policies for nonpayment.

13 3. Respondents violated A.R.S. § 20-1632(A)(2) and the 1993 Order by
14 canceling personal automobile policies for underwriting reasons without notifying the
15 insureds that they may qualify for coverage under the assigned risk plan.

16 4. Respondents violated A.R.S. § 20-263(A) by increasing the premium of
17 automobile policies as the result of accidents without documenting that the insureds
18 were substantially at fault.

19 5. Respondents violated A.R.S. § 20-385(A) by failing to apply the at-fault
20 surcharge in rating one policy where the insured was substantially at fault in an
21 accident, and by surcharging a policy for an at-fault accident although the responsible
22 driver was no longer a member of the household.

23 6. Respondents violated A.R.S. § 20-1631(D) by canceling and nonrenewing
24 personal automobile policies as the result of actions of drivers other than the named
25 insureds, without notifying the named insureds of the right to retain the policies by
agreeing in writing to exclude the wrongdoing drivers from coverage.

1 7. Respondents violated A.R.S. § 20-1652(A) by canceling a homeowner
2 policy that had been in effect for 60 days for a reason other than those permitted by
3 statute.

4 8. Respondents violated A.R.S. § 20-1652(B) by nonrenewing homeowner
5 policies for conditions of the premises without giving the insureds the opportunity to
6 remedy the conditions required by law.

7 9. Respondents violated A.R.S §§ 20-357(E) and 20-400.01 (D) by failing to
8 issue exclusion endorsements to WC policies when officers and partners were excluded
9 from coverage.

10 10. Respondents violated A.R.S. § 20-400.01(D) and 23-906 by failing to
11 obtain and maintain copies of written notices by employees rejecting workers
12 compensation coverage.

13 11. Respondents violated A.R.S. § 20-400.01(B) by making adjustments to
14 full manual premium developed for commercial package, commercial automobile, and
15 select markets policies without adequate documentation in justification of the
16 adjustments.

17 12. Respondents violated A.R.S. § 20-400.01(A) by determining the
18 premiums of commercial package, commercial and personal automobile, and select
19 markets policies other than on the basis of its rates and rules filed pursuant to A.R.S. §
20 20-385(A).

21 13. Respondents violated A.R.S. § 20-448(C) by failing to apply the Expense
22 Modification Plan to all qualifying policies.

23 14. Respondents violated A.R.S. § 20-1677(A) by failing to send commercial
24 package and select markets insureds notices of premium increase, changes in
25 deductible or reduction in limits or substantial reduction in coverage at least 60 days
before policy expiration.

1 15. By failing to send notices of cancellation or nonrenewal to select markets
2 insureds whose policies were terminated, Respondents violated A.R.S. §§ 20-1674(A)
3 and 20-1676(B).

4 **ORDER**

5 **IT IS ORDERED THAT:**

- 6 1. Respondents shall cease and desist from committing the following acts:
- 7 a. canceling or nonrenewing personal automobile policies for non-
8 payment of premium without sending notices to the insureds on the effective dates of
9 cancellation or nonrenewal, after a seven-day grace period;
 - 10 b. canceling or nonrenewing personal automobile policies for
11 nonpayment of premium without allowing a grace period of seven days after the
12 expiration date before canceling or nonrenewing the policies;
 - 13 c. canceling or nonrenewing personal automobile policies for
14 underwriting reasons without stating in the notices that the insureds may be eligible for
15 coverage under the assigned risk program plan;
 - 16 d. increasing automobile policy premiums because of accidents in
17 which the insured was involved, without documenting that the insureds were
18 substantially at fault;
 - 19 e. determining the premiums of personal automobile policies other
20 than on the basis of Respondents' filed rates and rules;
 - 21 f. terminating personal automobile policies as the result of actions of
22 a driver other than the named insured, without notifying the named insured of the right
23 to retain the policy by agreeing in writing to exclude that driver from coverage;

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1 g. nonrenewing policies of homeowner insurance as the result of the
2 condition of the premises, without giving the insureds at least 30 days notice to remedy
3 the conditions prior to the expiration date of the policy, and an additional 30 days upon
4 payment of premium;

5 h. failing to issue exclusion endorsements WC policies when officers
6 and partners were excluded;

7 i. failing to obtain and maintain copies of written notices by
8 employees rejecting workers compensation coverage;

9 j. failing to include adequate documentation in support of changes in
10 schedule/IRPM credits given commercial package and commercial automobile insureds
11 from year to year;

12 k. failing to send commercial package and select markets insureds
13 notices of premium increase, change in deductible or reduction in limits or substantial
14 reduction in coverage at least sixty days before policy expiration;

15 l. failing to apply schedule/IRPM rating plans, experience rating
16 plans, and expense modification plans to all qualifying commercial package and
17 commercial automobile policies;

18 m. determining the premiums of commercial package and commercial
19 automobile policies on the basis of unfiled rates, charges, credits, expense modification
20 plans or detrend factors;

21 n. failing to send notices of cancellation or nonrenewal to the insureds
22 of select markets policies at least 60 days prior to the effective dates of policy
23 cancellation or nonrenewal, or at least 10 days prior to the effective date of a notice of
24 cancellation for nonpayment of premium.

25 o. failing to apply the Expense Modification Plan to other insureds
having substantially like insuring risk and exposure factors.

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

7 3. Within 90 days of the filed date of this Order, Respondents shall refund
8 the amount of \$81,045, plus interest at the rate of 10% per annum from the date of the
9 overcharge to the date of the refund, to the insureds listed in Exhibit A of this Order.

10 4. Within 90 days of the filed date of this Order, Respondents shall re-open
11 Claim Number 07A-93245560. If Respondents find no reason to deny the claim, they
12 shall pay the full amount of the claim, including any sales taxes, license fees, and other
13 fees related to the purchase of a comparable car, plus interest on the unpaid amount at
14 the rate of ten percent (10%) per annum calculated from the date the claims were
15 received by Respondent to the date of repayment.

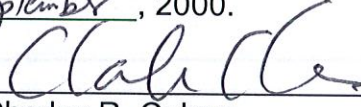
16 5. Each payment made pursuant to paragraphs 3 and 4 above shall include
17 a letter of explanation to the insured in a form previously approved by the Director. A
18 list of payments, giving the name and address of each party paid, the amount of the
19 payment, the amount of interest paid, and the date of payment, shall be provided to the
20 Department within 90 days of the filed date of this Order.

21 6. The Department shall be permitted, through authorized representatives, to
22 verify that Respondents has complied with all provisions of this Order.

23 7. Respondents shall pay civil penalties totaling \$25,000 to the Director for
24 deposit in the State General Fund in accordance with A.R.S. §§ 20-220(B). The civil
25 penalty shall be provided to the Market Conduct Examinations Division of the
Department prior to the filing of this Order.

1 8. The Report of Examination of the Market Conduct Affairs of Respondents
2 as of July 19, 1996, including the letter submitted in response to the Report of
3 Examination, shall be filed with the Department after the Director has filed this Order.

4 DATED at Phoenix, Arizona this 22nd day of September, 2000.

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7 Charles R. Cohen
8 Director of Insurance

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CONSENT TO ORDER

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2 1. Respondents, Safeco Insurance Company of America, Safeco Insurance
3 Company of Illinois, Safeco National Insurance Company, First National Insurance
4 Company of America, and General Insurance Company of America, have reviewed the
5 attached Consent Order.

6 2. Respondents admit the jurisdiction of the Director of Insurance, State of
7 Arizona, admit the foregoing Findings of Fact, and consent to the entry of the
8 Conclusions of Law and Order.

9 3. Respondents are aware of the right to a hearing, at which they may be
10 represented by counsel, present evidence and cross-examine witnesses. Respondents
11 irrevocably waive the right to such notice and hearing and to any court appeals related
12 to this Order.

13 4. Respondents state that no promise of any kind or nature whatsoever was
14 made to them to induce them to enter into this Consent Order and that they have
15 entered into this Consent Order voluntarily.

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

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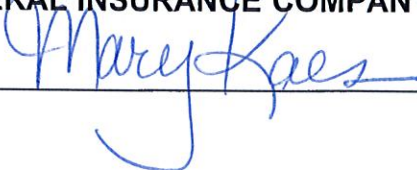
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6. Mary Kaes, who holds the office of
Regional Vice President of Respondents, is authorized to enter into this Order
for them and on their behalf.

**SAFECO INSURANCE COMPANY OF AMERICA
SAFECO INSURANCE COMPANY OF ILLINOIS
SAFECO NATIONAL INSURANCE COMPANY
FIRST NATIONAL INSURANCE COMPANY OF AMERICA
GENERAL INSURANCE COMPANY OF AMERICA**

September 19, 2000
Date

By: 

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**SAFECO INSURANCE COMPANIES
OVERCHARGES**

COMMERCIAL PACKAGE		COMMERCIAL AUTO	
CP 8329735C	\$ 535	BA 2271742	\$ 715
CP 8329735E	\$ 353	BA 2226345B	\$ 728
CP 9300170B	\$ 3,148	BA 2240475A	\$ 146
CP 8248461	\$ 128	BA 8727631	\$ 1,867
CP 8232967G	\$ 54	BA 8727663	\$ 607
CP 8725972A	\$ 119	BA 8723686A	\$ 297
CP 8725972A	\$ 273	BA 2226345B	\$ 277
CP 8727526	\$ 24	BA 8727631A	\$ 2,804
	\$ 4,634	BA 8724574C	\$ 395
		BA 8727663A	\$ 422
		BA 8729294	\$ 860
		BA 8762780	\$ 3,366
		BA 8727663A	\$ 157
		BA 2271742	\$ 361
		BA 8728650	\$ 1,525
		BA 8729294	\$ 665
		BA 8727663B	\$ 522
		BA 7751395B	\$ 1,675
		BA 7751917B	\$ 48,233
		BA 7751395C	\$ 1,482
		BA 8762780	\$ 3,215
		BA 8723686C	\$ 645
		BA 7751395D	\$ 2,182
		BA 8723686D	\$ 640
		BA 8762780	\$ 2,625
			\$ 76,411

TOTAL OVERCHARGES: \$81,045

EXHIBIT A

1 COPY of the foregoing mailed/delivered
2 This 22nd day of September 2000, to:

3 Sara Begley
4 Deputy Director
5 Paul J. Hogan
6 Chief Market Conduct Examiner
7 Market Conduct Examinations Division
8 Mary Butterfield
9 Assistant Director
10 Consumer Affairs Division
11 Deloris E. Williamson
12 Assistant Director
13 Rates & Regulations Division
14 Kelly Stevens
15 Acting Assistant Director
16 Financial Affairs Division
17 Nancy Howse
18 Chief Financial Examiner
19 Terry L. Cooper
20 Fraud Unit Chief

21
22 DEPARTMENT OF INSURANCE
23 2910 North 44th Street, Suite 210
24 Phoenix, AZ 85018

25
26 DON D. McLEAN
27 SAFECO Insurance Company of America, et al
28 SAFECO Plaza
29 Seattle, WA 98185

30 