

BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF CALIFORNIA

In the Matter of the Rate Rollback and Refund Obligation of	)	File No. REB-2754
	)	
NORCAL Mutual Insurance Company,	)	STIPULATION AND CONSENT ORDER
	)	
	)	
Respondent.	)	

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The Department of Insurance of the State of California (the "Department") and Respondent NORCAL Mutual Insurance Company ("Respondent") stipulate as set forth herein.

RECITALS

A. Insurance Code Section 1861.01 was enacted by the voters of California on November 8, 1988 as a part of initiative measure Proposition 103. That section, as subsequently modified on May 8, 1989 by the California Supreme Court in CalFarm v. Deukmejian (1989) 48 Cal.3d 805), requires insurers writing specified lines of property and casualty insurance in California to reduce rates and make certain refunds to policyholders. The determination of a constitutionally permissible manner in which to accomplish these rollbacks and refunds has been the subject of administrative and judicial proceedings.

B. The Department claims that, under its specific circumstances, Respondent is obligated to roll back its rates and refund premiums collected for policies in force between November 8, 1988 and November 8, 1989. Respondent denies that it has any such obligation.

C. It is in the best interests of Respondent and Respondent's policyholders to resolve these issues promptly and without further expense. Additionally, Respondent desires a prompt resolution to its rollback liability.

D. The Department wishes now to resolve this matter as regards Respondent, without the need for further hearing or administrative action, except as provided herein. It is in the best interest of the Department and the People of the State of California that this matter be resolved in this manner.

THEREFORE, THE DEPARTMENT AND RESPONDENT STIPULATE AS FOLLOWS:

- 1) Respondent's Board of Directors in 1991 shall authorize a rollback refund equal to 20% of the premium paid by each policyholder for calendar year 1989. Respondent's 1989 paid premium was \$76,581,000 under overall rate levels identical to those prevailing on November 8, 1987, requiring a rollback refund of \$15,316,200. Respondent shall pay 10% simple interest on this amount covering the period of time beginning May 8, 1989 until such time as either the entire rollback refund has been paid or the last quarterly credit has been applied as set forth in paragraph 3, below. Interest is \$4,558,972 assuming refunds are timely made for a total rollback refund obligation of \$19,875,172.
- 2) The amount specified in paragraph 1, above, including the interest specified therein, shall constitute Respondent's entire rollback refund obligation pursuant to Insurance Code

Section 1861.01. Specifically, in the event of a change in the laws or regulations governing the rollback refund obligations of insurers subject to Proposition 103, or of any other change which might otherwise have affected Respondent's rollback refund obligation, neither the Commissioner nor Respondent shall be entitled to an adjustment in the rollback refund obligation provided for herein.

- 3) The rollback refund obligation shall be paid to each policyholder issued or renewed a policy by Respondent between November 8, 1988 and November 8, 1989. Where such policyholders are still insured by Respondent, Respondent shall pay the rollback refund obligation by applying it in four quarterly installments as a credit against 1992 premium; however, in the event that 1992 premium is less than the amount of the rollback refund obligation for any such policyholder, the rollback refund obligation in excess of the 1992 premium shall be paid by check no later than December 31, 1992. Where such policyholders have died, retired, become disabled or otherwise will not pay premium to Respondent in 1992, the rollback refund obligation shall be paid by check no later than March 31, 1992.
- 4) The rate rollback obligation is a return of premium and as such is treated as a policyholder dividend in accordance with customary industry practice. The rollback shall be separately reported as a voluntary rollback refund under Proposition 103.
- 5) Respondent's rate rollback exemption application filed May 31,

1989 is withdrawn. Respondent's annual rate filings for 1990 and 1991 are hereby granted interim approval by the Department.

- 6) The rollback refund obligation provided for herein shall not constitute a fine, penalty or adverse administrative action.
- 7) Upon the execution of this agreement, the Insurance Commissioner shall give notice to the public that, within 20 days of the date of the notice any consumer or his or her representative may request a hearing in which this agreement, or any part of it, may be challenged. That notice shall include a copy of this agreement and this agreement shall not become final until either the expiration of the 20-day period or the disposition of any hearing held thereon, whichever is later.
- 8) Respondent shall comply with all terms and conditions of this agreement on or before December 31, 1992.
- 9) Respondent shall submit quarterly compliance reports commencing with the last day of the calendar quarter in which the order adopting this agreement is entered and until all terms and conditions of this agreement are satisfied. These reports shall include, at a minimum, (1) total principal and interest amounts refunded by check, total principal and interest amounts credited to policyholder accounts, and (2) the names, last known addresses and principal and interest amounts due policyholders whom Respondent has been unable to

locate.

- 10) Respondent shall make disclosure of its rollback plan in its Annual Statement to the Insurance Commissioner of the State of California and in its Annual Report to Members.
- 11) Respondent shall provide, within a reasonable time, any information requested by the Department regarding Respondent's rollback refund obligation.
- 12) Respondent shall dismiss all pending administrative and judicial actions challenging the Commissioner's rate rollback regulations.
- 13) Respondent shall escheat all unpaid rollback refunds to the State of California in compliance with applicable California law.
- 14) Nothing contained herein shall limit the Commissioner's ability to bring any actions that he may deem necessary to enforce other provisions of law relating to Respondent or its rates, rating plan, rating system or underwriting rules.

Date: 10/4, 1991

NORCAL Mutual Insurance Company

By: Albert C. McConis  
Title Pres/CEO

Date: 10/6, 1991

JOHN GARAMENDI  
Insurance Commissioner  
State of California

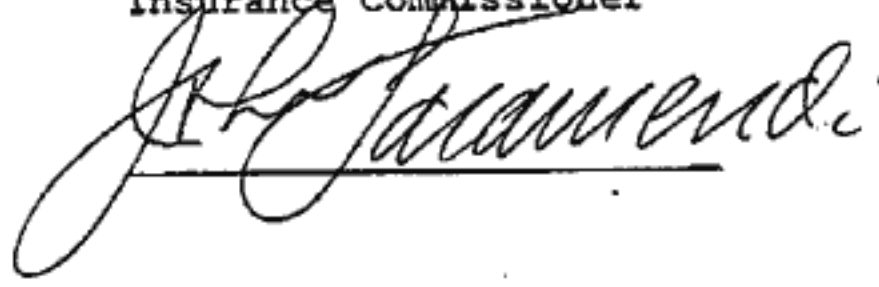
BY: Steven Miller  
Steven Miller  
Deputy Commissioner

ORDER

The terms of the foregoing stipulation are hereby adopted as the order of the Insurance Commissioner of the State of California in the above-entitled matter.

Date: 12/3, 1991

JOHN GARAMENDI  
Insurance Commissioner

A handwritten signature in cursive script, reading "John Garamendi", written over a horizontal line.

BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF CALIFORNIA

In the Matter of the Rate Rollback and Refund Obligation of	)	File No. REB-1242
	)	
Southern California Physicians Insurance Exchange,	)	STIPULATION AND CONSENT ORDER
	)	
	)	
Respondent.	)	

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The Department of Insurance of the State of California (the "Department") and Respondent Southern California Physicians Insurance Exchange ("Respondent") stipulate as set forth herein.

RECITALS

A. Insurance Code Section 1861.01 was enacted by the voters of California on November 8, 1988 as a part of initiative measure Proposition 103. That section, as subsequently modified on May 8, 1989 by the California Supreme Court in CalFarm Ins. Co. v. Deukmejian (1989) 48 Cal.3d 805, requires insurers writing specified lines of property and casualty insurance in California to reduce rates and make certain refunds to policyholders. The determination of a constitutionally permissible manner in which to accomplish these rollbacks and refunds has been the subject of administrative and judicial proceedings.

B. The Department claims that, under its specific circumstances, Respondent is obligated to roll back its rates and refund premiums collected for policies in force between November 8, 1988 and November 8, 1989. Respondent denies that it has any such obligation.

C. It is in the best interests of Respondent and Respondent's policyholders to resolve these issues promptly and without further expense. Additionally, Respondent desires a prompt resolution to its rollback liability.

D. The Department wishes now to resolve this matter as regards Respondent, without the need for further hearing or administrative action, except as provided herein. It is in the best interest of the Department and the People of the State of California that this matter be resolved in this manner.

THEREFORE, THE DEPARTMENT AND RESPONDENT STIPULATE AS FOLLOWS:

- 1) Pursuant to the Department's regulations, Respondent's constitutional rollback amount is \$24,706,146. Respondent's Board of Governors in 1991 shall authorize a rollback refund in this amount. Respondent shall pay 10% simple interest on the unpaid balance of this amount covering the period of time beginning May 8, 1989, until such time as either the entire rollback refund has been paid or the last quarterly credit has been applied as set forth in paragraph 3, below. As of October 15, 1991, accrued interest is \$6,024,238.
- 2) The amount specified in paragraph 1, above, including the interest specified therein, shall constitute Respondent's entire rollback refund obligation pursuant to Insurance Code Section 1861.01. Specifically, in the event of a change in the laws or regulations governing the rollback refund



obligations of insurers subject to Proposition 103, or of any other change which might otherwise have affected Respondent's rollback refund obligation, neither the Commissioner nor Respondent shall be entitled to an adjustment in the rollback refund obligation provided for herein.

- 3) The rollback refund obligation shall be paid to each policyholder issued or renewed a policy by Respondent between November 8, 1988 and November 8, 1989, in the proportion the premium paid by each such policyholder for calendar year 1989 bears to the total premiums paid by all such policyholders for calendar year 1989. Each payment calculation shall be rounded to the nearest dollar. Where such policyholders are still insured by Respondent, Respondent shall pay the rollback refund obligation by applying it in quarterly installments as a credit against 1992 and 1993 premiums; provided, however, that Respondent shall return at least \$20,000,000, including interest, during 1991 and 1992, and, in the event that 1992 and 1993 premium is less than the amount of the rollback refund obligation for any such policyholder, the rollback refund obligation in excess of the 1992 and 1993 premium shall be paid by check no later than December 31, 1993. Where such policyholders have died, retired, become disabled or otherwise will not pay premium to Respondent in 1992, the

rollback refund obligation shall be paid by check no later than March 31, 1992.

- 4) The rate rollback obligation is a return of premium. The rollback shall be separately reported as a voluntary rollback refund under Proposition 103.
- 5) Respondent's rate rollback exemption application filed June 1, 1989 is withdrawn. Respondent's annual rate filing for 1991 is hereby granted interim approval by the Department.
- 6) The rollback refund obligation provided for herein shall not constitute a fine, penalty or adverse administrative action.
- 7) Upon the execution of this agreement, the Insurance Commissioner shall give notice to the public that, within 20 days of the date of the notice any consumer or his or her representative may request a hearing in which this agreement, or any part of it, may be challenged. That notice shall include a copy of this agreement and this agreement shall not become final until either the expiration of the 20-day period or the disposition of any hearing held thereon, whichever is later.
- 8) Respondent shall comply with all terms and conditions of this agreement on or before December 31, 1993.
- 9) Respondent shall submit quarterly compliance reports commencing with the last day of the calendar quarter in which the order adopting this agreement is entered and until all terms and conditions of this agreement are satisfied.

These reports shall include, at a minimum, (1) total principal and interest amounts refunded by check, total principal and interest amounts credited to policyholder accounts, and (2) the names, last known addresses and principal and interest amounts due policyholders whom Respondent has been unable to locate.

- 10) Respondent shall make disclosure of its rollback plan in its Annual Statement to the Insurance Commissioner of the State of California and in its Annual Report to Members.
- 11) Respondent shall provide, within a reasonable time, any information requested by the Department regarding Respondent's rollback refund obligation.
- 12) Respondent shall dismiss all pending administrative and judicial actions challenging the Commissioner's rate rollback regulations.
- 13) Respondent shall escheat all unpaid rollback refunds to the State of California in compliance with applicable California law.
- 14) Nothing contained herein shall limit the Commissioner's ability to bring any actions that he may deem necessary to

enforce other provisions of law relating to Respondent or its rates, rating plan, rating system or underwriting rules.

Date: October 15, 1991

SOUTHERN CALIFORNIA  
PHYSICIANS INSURANCE  
EXCHANGE

By: Donald J. Zuk  
DONALD J. ZUK  
President and Chief  
Executive Officer

Date: October 15, 1991

JOHN GARAMENDI  
Insurance Commissioner  
State of California

BY: Steven Miller  
STEVEN MILLER  
Deputy Commissioner

ORDER

The terms of the foregoing stipulation are hereby adopted as the order of the Insurance Commissioner of the State of California in the above-entitled matter.

Date: 12-12, 1991

JOHN GARAMENDI  
Insurance Commissioner

John Garamendi

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Department of Insurance  
Dept. of Insurance

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BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF CALIFORNIA

In the Matter of the Rate Rollback and Refund Obligation of	)	File No. REB-5746
THE DOCTORS' COMPANY,	)	STIPULATION AND
Respondent.	)	CONSENT ORDER

The Department of Insurance of the State of California (the "Department") and Respondent The Doctors' Company ("Respondent") stipulate as set forth herein.

RECITALS

A. Insurance Code Section 1861.01 was enacted by the voters of California on November 8, 1988 as a part of initiative measure Proposition 103. That section, as subsequently modified by the California Supreme Court in *Calfarm Insurance Company v. Deukmejian* (1989) 48 Cal.3d 805, requires insurers writing specified lines of property and casualty insurance in California to reduce rates and refund certain funds to policyholders. The determination of a constitutionally permissible manner in which to accomplish this rollback and refund has been the subject of administrative and judicial proceedings.

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1 B. The Department claims that, under its specific  
2 circumstances, Respondent is obligated to roll back its rates and  
3 refund premiums collected for policies in force between November  
4 8, 1988 and November 8, 1989 ("Rollback Year.") Respondent  
5 denies that it has any such obligation.

6 C. It is in the best interests of Respondent and  
7 Respondent's policyholders to resolve these issues promptly and  
8 without further expense. Additionally, Respondent desires a  
9 prompt resolution of its rollback liability.

10 D. The Department wishes now to resolve this matter as  
11 regards Respondent, without the need for a hearing or for further  
12 administrative action, except as provided herein. It is in the  
13 best interest of the Department and the People of the State of  
14 California that this matter be resolved in this manner.

15 THEREFORE, THE DEPARTMENT AND RESPONDENTS STIPULATE AS  
16 FOLLOWS:

17 1. Pursuant to the regulations proposed by the Department  
18 and identified as Title 10, Chapter 5, Sections 2641.1 - 2647.1,  
19 Respondent's statutory rollback amount is \$14,333,178.  
20 Respondent's Board of Governors shall authorize a rollback refund  
21 in this amount. Respondent shall pay 10% simple interest on this  
22 amount covering the period of time beginning May 8, 1989 until  
23 such time as either the entire rollback refund has been paid or  
24 the last quarterly credit has been applied as set forth in  
25 Paragraph 5, below. Interest on that amount is \$4,186,066

26 ///

27 ///

1 assuming that all refunds are made by April 8, 1992, for a total  
2 rollback obligation of \$18,519,217.

3 2. The amount specified in Paragraph 1, above, including  
4 the interest specified therein, shall constitute Respondent's  
5 entire rollback obligation pursuant to Insurance Code Section  
6 1861.01. Specifically, in the event of a change in the laws or  
7 regulations governing the rollback obligations of insurers  
8 subject to Proposition 103, or of any other change which might  
9 otherwise have affected Respondent's rollback refund obligation,  
10 neither the Insurance Commissioner nor Respondent shall be  
11 entitled to an adjustment in the rollback refund provided for  
12 herein.

13 3. The rollback refund shall be paid to the holder of each  
14 policy issued or renewed by Respondent during the Rollback Year  
15 in the proportion the premium paid by each such policyholder  
16 during the Rollback Year bears to the total premiums paid by all  
17 such policyholders during the Rollback Year. Notwithstanding  
18 that Respondent's total rollback obligation reflects certain  
19 payments of dividends to some such policyholders, each such  
20 policyholder is entitled to, and shall receive, a total rollback  
21 refund, including actual dividend payments, equal to no less than  
22 19.24%.

23 4. For policyholders who are still insured by Respondent,  
24 Respondent shall pay the rollback refund by applying it in  
25 quarterly installments as a credit against premiums due prior to  
26 March 31, 1993; however, in the event that premiums due from a  
27 policyholder prior to March 31, 1993 are less than the amount of

1 the rollback refund due to such policyholder, then the rollback  
2 refund amount in excess of those premiums shall be paid by check  
3 no later than March 31, 1993. For policyholders who have died,  
4 retired, become disabled or who otherwise will not pay premiums  
5 to Respondent in 1992, the rollback refund shall be paid by check  
6 to the policyholder by April 8, 1992. All rollback refunds and  
7 all interest which has accrued thereon shall be paid or credited  
8 in full no later than March 31, 1993.

9 5. To the extent that any policyholder's rollback refund  
10 obligation is not satisfied by April 8, 1992, interest shall  
11 continue to accrue on the amount of the rollback refund that is  
12 unpaid, and the total amount of interest to be paid by Respondent  
13 shall exceed the amount set forth above in Paragraph 1.

14 6. The rate rollback obligation specified herein is a  
15 return of premium and as such is treated as a policyholder  
16 dividend in accordance with customary industry practice. The  
17 rollback refund shall be separately reported as a voluntary  
18 rollback refund under Proposition 103.

19 7. Respondent's rate rollback application dated June 2,  
20 1989 is hereby withdrawn.

21 8. The rollback refund and interest provided for herein  
22 shall not constitute a fine, penalty or adverse action.

23 9. Upon the execution of this agreement, the Insurance  
24 Commissioner shall give notice to the public that, within 20 days  
25 of the date of the notice, any consumer or his or her  
26 representative may request a hearing in which this agreement, or  
27 any part of it, may be challenged. That notice shall include a



1 copy of this agreement and this agreement shall not become final  
2 until the expiration of the 20-day period or the disposition of  
3 any hearing held thereon, whichever is later.

4 10. Respondent shall comply with all terms and conditions  
5 of this agreement on or before March 31, 1993.

6 11. Respondent shall submit quarterly compliance reports  
7 commencing with the last day of the calendar quarter in which the  
8 order adopting this agreement is entered and until all terms and  
9 conditions of this agreement are satisfied. These reports shall  
10 include, at a minimum, 1) the total principal and interest  
11 amounts refunded by check and total principal and interest  
12 amounts credited to policyholder accounts, and 2) the names, last  
13 known addresses and principal and interest amounts due  
14 policyholders whom Respondent has been unable to locate.

15 12. Respondent shall make disclosure of its rollback plan  
16 in its Annual Statement to the California Department of Insurance  
17 and in its Annual Report to Members.

18 13. Respondent shall provide, within a reasonable time, any  
19 information requested by the Department regarding the rollback  
20 refund.

21 14. Respondent shall dismiss all pending administrative and  
22 judicial actions challenging the Insurance Commissioner's rate  
23 rollback regulations.

24 15. Respondent shall escheat all unpaid rollback refunds to  
25 the State of California in compliance with applicable California  
26 law.

27 16. Nothing contained herein shall limit the Insurance

1 Commissioner's ability to bring any actions that he may deem  
2 necessary to enforce other provisions of law relating to  
3 Respondent or its rates, rating plan, rating system or  
4 underwriting rules.

5 DATE: February 13, 1992

THE DOCTORS' COMPANY

6 By: Joseph Stabella  
7 Name

8 President  
9 Title

10 DATE: February 20, 1992

JOHN GARAMENDI  
Insurance Commissioner  
State of California

11 By: Steven Miller  
12

13 Steven Miller  
14 Deputy Commissioner  
15

16 ORDER

17 The terms of the foregoing stipulation are hereby adopted as  
18 the order of the Insurance Commissioner of the State of  
19 California in the above-entitled matter.  
20

21 DATE: ~~February~~ <sup>March</sup> 4, 1992

22 John Garamendi  
23

24 JOHN GARAMENDI  
25 Insurance Commissioner  
26  
27