

PUBLIC REPORT OF EXAMINATION OF THE CLAIMS

PRACTICES OF THE

**CUMIS INSURANCE SOCIETY, INC**  
**NAIC # 10847 CDI # 1870-5**

**CUNA MUTUAL INSURANCE SOCIETY**  
**NAIC # 62626 CDI # 1268-2**

**MEMBERS LIFE INSURANCE COMPANY**  
**NAIC # 86126 CDI # 2248-3**

**CMG MORTGAGE INSURANCE COMPANY**  
**NAIC # 40266 CDI # 2471-1**

AS OF JUNE 30, 1999

STATE OF CALIFORNIA



**DEPARTMENT OF INSURANCE**  
**FIELD CLAIMS BUREAU**

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**CALIFORNIA DEPARTMENT OF INSURANCE**

Consumer Services and Market Conduct Branch  
Field Claims Bureau, 11th Floor  
Ronald Reagan State Office Building  
300 South Spring Street  
Los Angeles, CA 90013



December 31, 2001

The Honorable Harry W. Low  
Insurance Commissioner  
State of California  
45 Fremont Street  
San Francisco, California 94105

Honorable Commissioner:

Pursuant to instructions, and under the authority granted under Part 2, Chapter 1, Article 4, Sections 730, 733, 736, and Article 6.5, Section 790.04 of the California Insurance Code; and Title 10, Chapter 5, Subchapter 7.5, Section 2695.3(a) of the California Code of Regulations, an examination was made of the claims practices and procedures in California of:

**CUMIS INSURANCE SOCIETY, INC**  
**NAIC # 10847**

**CUNA MUTUAL INSURANCE SOCIETY**  
**NAIC # 62626**

**CMG MORTGAGE INSURANCE COMPANY**  
**NAIC # 40266**

**MEMBERS LIFE INSURANCE COMPANY**  
**NAIC # 86126**

Hereinafter referred to as CUMIS INSURANCE SOCIETY, INC, CUNA MUTUAL INSURANCE SOCIETY, CMG MORTGAGE INSURANCE COMPANY AND MEMBERS LIFE INSURANCE COMPANY or collectively as The CUNA Group or the Companies.

This report is made available for public inspection and is published on the California Department of Insurance web site ([www.insurance.ca.gov](http://www.insurance.ca.gov)) pursuant to California Insurance Code section 12938.

## **SCOPE OF THE EXAMINATION**

The examination covered the claims handling practices of the aforementioned Companies during the period July 1, 1998 through June 30, 1999. The examination was made to discover, in general, if these and other operating procedures of the Companies conform with the contractual obligations in the policy forms, to provisions of the California Insurance Code (CIC), the California Code of Regulations (CCR) and case law. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al.

To accomplish the foregoing, the examination included:

1. A review of the guidelines, procedures, training plans and forms adopted by the Companies for use in California including any documentation maintained by the Companies in support of positions or interpretations of fair claims settlement practices.
2. A review of the application of such guidelines, procedures, and forms, by means of an examination of claims files and related records.
3. A review of consumer complaints received by the California Department of Insurance (CDI) in the most recent year prior to the start of the examination.

The examination was conducted as a desk exam in Los Angeles, California.

The report is written in a “report by exception” format. The report does not present a comprehensive overview of the subject insurer’s practices. The report contains only a summary of pertinent information about the lines of business examined and details of the non-compliant or problematic activities or results that were discovered during the course of the examination along with the insurer’s proposals for correcting the deficiencies. When a violation is discovered that results in an underpayment to the claimant, the insurer corrects the underpayment and the additional amount paid is identified as a recovery in this report. All unacceptable or non-compliant activities may not have been discovered, however, and failure to identify, comment on or criticize activities does not constitute acceptance of such activities.

The alleged violations identified in this report and any criticisms of practices have not undergone a formal administrative or judicial process.

## CLAIM SAMPLE REVIEWED AND OVERVIEW OF FINDINGS

The examiners reviewed files drawn from the category of Closed Claims for the period July 1, 1998 through June 30, 1999 commonly referred to as the “review period”. The examiners reviewed 136 Cumis Insurance Society, Inc commercial multi-peril property (CMP), 118 commercial auto (CA); 122 Cuna Mutual Insurance Society life (L), credit disability (CD), credit life (CL); 42 Members Life Insurance life (L), and seven CMG Mortgage Insurance Company mortgage guarantee (MG) claim files. The examiners cited 73 claims handling violations of the Fair Claims Settlement Practices Regulations and/or the California Insurance Code Section 790.03 within the scope of this report.

<b>Cumis Insurance Society, Inc.</b>			
<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
CMP Property	163	41	7
CMP Bodily Injury	70	35	5
CMP Property Damage	14	11	0
CMP Other Liability	139	49	13
CA Bodily Injury	5	4	0
CA Property Damage	15	9	4
CA Collision	403	62	20
CA Comprehensive	97	43	14
<b>TOTALS</b>	906	254	63

<b>Cuna Mutual Insurance Society</b>			
<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
L - Life	63	33	0
CD Credit Disability	9623	48	2
CL Credit Life	2330	41	8
<b>TOTALS</b>	12016	122	10

<b>Members Life Insurance Company</b>			
<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
L - Life	101	42	0
<b>TOTALS</b>	101	42	0

<b>CMG Mortgage Insurance Company</b>			
<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
MG Mortgage Guarantee	7	7	0
<b>TOTALS</b>	7	7	0

<b>TABLE OF TOTAL CITATIONS</b>			
<b>Citation</b>	<b>Description</b>	<b>Cumis Insurance Society, Inc.</b>	<b>Cuna Mutual Insurance Society</b>
CCR §2695.7(b)(3)	The Company failed to include a statement in their claim denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance.	18	10
CCR §2695.7(f)	The Company failed to provide written notice of any statute of limitation or other time period requirement not less than sixty days prior to the expiration date.	9	0
CCR §2695.3(a)	The Company's claim file failed to contain all documents, notes and work papers which pertain to the claim	7	0
CCR §2695.8(b)(1)	The Company failed to include in the settlement, all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of comparable automobile and the Company failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile.	8	0
CCR §2695.8(i)	The Company failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation.	5	0
CCR §2695.7(b)	The Company failed, upon receiving proof of claim, to accept or deny the claim within forty calendar days.	4	0
CCR §2695.8(b)(1)(c)	The Company failed to document the determination of value. Any deductions from value, including deduction for salvage must be discernible, measurable, itemized and specified as well as be appropriate in dollar amount.	2	0
CCR §2695.5(e)(3)	The Company failed to begin investigation of the claim within fifteen calendar days.	2	0
CCR §2695.7(c)(1)	The Company failed to provide written notice of the need for additional time every thirty calendar days.	2	0
CCR §2695.5(e)(1)	The Company failed to acknowledge notice of claim within fifteen calendar days.	2	0
CCR §2695.7(h)	Upon acceptance of the claim the Company failed to tender payment within thirty calendar days.	1	0
CCR §2695.5(e)(2)	The Company failed to provide necessary forms, instructions, and reasonable assistance within fifteen calendar days.	1	0
CCR §2695.5(b)	The Company failed to respond to communications within fifteen calendar days.	1	0
CCR §2695.8(j)	The Company failed to include the insured's deductible in the subrogation demand.	1	0
<b>Total Citations</b>		63	10

## **SUMMARY OF CRITICISMS, INSURER COMPLIANCE ACTIONS AND TOTAL RECOVERIES**

The following is a brief summary of the criticisms that were developed during the course of this examination related to the violations alleged in this report. In response to each criticism, the Company is required to identify remedial or corrective action(s) that has or will be taken to correct the deficiency. Regardless of the remedial actions taken or proposed by the Company, it is the Company's obligation to ensure that compliance is achieved. There were 3 cases where money was recovered for claimants. The total money recovered was \$1,420.13.

**1. The Company failed to include a statement in their claim denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance.** In 18 instances by the Cumis Insurance Society, Inc. and in 10 instances by the Cuna Mutual Insurance Society, the Companies failed to include a statement in their claim denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance. The Department alleges these acts are in violation of CCR § 2695.7(b)(3).

**Company Response:** The Company has acknowledged these violations. As a result of this claims examination, the Company states that personnel will be trained to provide written notification of the required advisory for all claims denied or rejected in whole or in part.

**2. The Company failed to provide written notice of any statute of limitation or other time period requirement not less than sixty days prior to the expiration date.** In nine instances, the Cumis Insurance Society, Inc. failed to provide written notice of any statute of limitation or other time period requirement not less than sixty days prior to the expiration date. The Department alleges these acts are in violation of CCR §2695.7(f).

**Company Response:** The Company has acknowledged these violations. As a result of this claim examination, the Company states that their Claim Specialists have been instructed to create an automatic review date for 65 days prior to the expiration of the statute of limitations to determine if a written notice is required.

**3. The Company's claim file failed to contain all documents, notes and work papers which pertain to the claim.** In seven instances, the Cumis Insurance

Society, Inc. failed to contain all documents, notes and work papers which pertain to the claim. The Department alleges these acts are in violation of CCR §2695.3(a).

**Company Response:** The Company has acknowledged these violations. As a result of this claims examination, the Company has changed their procedure to ensure that the claim file is documented to indicate that an appraisal report was provided to the claimant. The claim file will reflect when and how it was accomplished, i.e.: mailed, with check, faxed, etc.

**4. The Company failed to include, in the settlement, all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of comparable automobile and the Company failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile.** In eight instances, the Cumis Insurance Society, Inc. failed to include in the settlement, all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of comparable automobile and the Company failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile. The Department alleges these acts are in violation of CCR §2695.8(b)(1).

**Company Response:** The Company denies all but two of these allegations and states that they assert that the California regulation does not directly state that it applies to collateral protection insurance. The aim of CCR 2695.8(b)(1) is to make the typical automobile insured “whole,” i.e. to place him or her as closely as possible in the position they occupied before the total loss of a vehicle. To replace a vehicle or pay enough money to the typical automobile insured to buy a comparable vehicle will not achieve that aim unless funds are also included to pay the sales tax and fees. However, the purpose of the coverages under the Lending Package Of Protection (Physical Damage Coverage, Immediate Issue Physical Damage Coverage and Blanket Physical Damage Coverage), is not to allow the vehicle owner to purchase a vehicle to replace the one lost, but rather to allow the insured, the financial institution, to have coverage for its interest in collateral security in the event its borrower fails to insure the collateral. The coverage provided is for the least of the cost of repair, actual cash value, individual certificate amount or the loan balance settlement options. Coverage for sales tax, license and other fees does not make sense in the context of a policy covering a lender’s interest in an automobile secured loan. The insurance proceeds reduce the loan balance, but the borrower does not receive them to purchase a replacement automobile, as envisioned by the regulation; the insured financial institution receives the proceeds.

Furthermore, while it may make sense in the ordinary automobile insurance context to presume that an ACV settlement presents a total loss, as contemplated by the regulation cited, in the context of the Lending Package Of Protection, ACV settlement may not represent a total loss. For example, Claim #I1067862 has been cited as a violation. A copy of the settlement options worksheet was provided to you with our response to the Referral on this claim. This claim was processed under the Blanket Physical Damage Coverage. Although we made a payment based on the ACV Settlement Option, the vehicle clearly was not a total loss. The repair of this

vehicle amounted to \$6,605.21, which is approximately 53% of the calculated ACV of \$12,396.66. However, based on the Loss Settlement Options of this coverage, we paid the ACV settlement option because after deduction for the deductible (\$1,000) and salvage (credit union sold vehicle in damaged condition for \$6500) ACV was the lowest settlement option. This claim appears to fall well outside the scope of the regulation.

In addition, requiring sales tax and fees to be included within the calculation of the ACV, could revise a settlement option from ACV basis to Loan Balance or Individual Certificate Amount basis. Again, this situation would appear to fall well outside the scope of the regulation, as it would no longer represent an ACV settlement.

The lender does not replace vehicles insured under the Lending Package Of Protection, nor does it pay sales tax, license or other fees for a borrower's vehicle. CUMIS Insurance Society, Inc. insures the lender's interest in financed property. As such, including sales tax and fees would result in unjust enrichment or overindemnification, as we cannot reimburse our insureds for sums they are not legally required to pay.

We agree this citation is applicable to C521992 and C526907. In fact, we subsequently paid the applicable sales tax, license and other fees noted in our response to the Referrals and Re-Referrals. These claims were processed as Owned Autos under the Business Auto Policy. It should be noted that federal chartered credit unions can request waiver of sales tax and in such case, we would not reimburse the sales tax. However, if the dealer will not provide the waiver, sales tax would be paid.

We do not agree to payment of sales tax, license and other fees for C514838 and C530347. These claims were processed as Repossessed Autos under the Business Auto Policy. The insured financial institution repossessed the vehicles. The insured financial institution does not replace repossessed vehicles. Including sales tax and fees would unjustly enrich the insured.

For these reason, we believe only 2 claims, C521992 and C526907, were in violation of CCR 2695.8(b)(1), not 8 claims.

This issue will be considered for further administrative action.

**5. The Company failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation.** In five instances, the Cumis Insurance Society, Inc. failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation. The Department alleges these acts are in violation of CCR §2695.8(i).

**Company Response:** The Company acknowledges these violations. As a result of this claims examination, the Company states that their Claim Specialists have been instructed to include written notification with its payment to a first party claimant as to whether the Company intends to pursue subrogation.

**6. The Company failed, upon receiving proof of claim, to accept or deny the claim within forty calendar days.** In four instances, the Cumis Insurance Society, Inc. failed, upon receiving proof of claim, to accept or deny the claim within forty calendar days. The Department alleges these acts are in violation of CCR §2695.7(b).

**Company Response:** The Company acknowledges these violations. As a result of this claims examination, the Company has instructed their Claims Specialists to create an automatic review date at thirty days after receipt of the proof of claim to determine if the Company is accepting or denying the claim.

**7. The Company failed to document the determination of value. Any deductions from value, including deduction for salvage must be discernible, measurable, itemized and specified as well as be appropriate in dollar amount.** In two instances, the Cumis Insurance Society, Inc. failed to document the determination of value. Any deductions from value, including deduction for salvage must be discernible, measurable, itemized and specified as well as be appropriate in dollar amount. The Department alleges these acts are in violation of CCR §2695.8(b)(1)(c).

**Company Response:** The Company acknowledges these violations. As a result of this claims examination the claim specialists have been informed of the requirements of CCR §2695.8(b)(1)(c). Files will be documented with determination of value and supported by appropriate documentation. Any deductions from value, including deduction for salvage, will be discernible, measurable, itemized, and specified as well as appropriate in dollar amount and so documented in the claim file.

**8. The Company failed to begin investigation of the claim within fifteen calendar days.** In two instances, the Cumis Insurance Society, Inc. failed to begin investigation of the claim within fifteen calendar days. The Department alleges these acts are in violation of CCR §2695.5(e)(3).

**Company Response:** The Company acknowledges the violation cited. The claim specialists have been informed of the requirements of CCR §2695.5(e)(3). Any necessary investigation of a claim will begin within 15 calendar dates of receipt of claim.

**9. The Company failed to provide written notice of the need for additional time every thirty calendar days.** In two instances, the Cumis Insurance Society, Inc. failed to provide written notice of the need for additional time every thirty calendar days. The Department alleges these acts are in violation of CCR §2695.7(c)(1).

**Company Response:** The Company acknowledges these allegations. As a result of this claims examination, the Company has instructed their Claim Specialists to create a review date for thirty days after receipt of the proof of loss to

review. If the claim has not been accepted or denied, the Company will send a written notice to the claimant specifying the reason for additional time needed or requesting additional information. The Company will create a review date for every thirty days thereafter to send a written notice or request to the claimant until the claim is concluded or legal action is commenced.

**10. The Company failed to acknowledge notice of claim within fifteen calendar days.** In two instances, the Cumis Insurance Society, Inc. failed to acknowledge notice of claim within fifteen calendar days. The Department alleges these acts are in violation of CCR §2695.5(e)(1).

**Company Response:** The Company acknowledges these allegations. The Company had in place claim department standards requiring acknowledgement of claims within forty-eight business hours of receipts of the claim. The Company has reiterated these claim acknowledgement standards to their Claim Specialists.

**11. Upon acceptance of the claim the Company failed to tender payment within thirty calendar days.** In one instance, the Cumis Insurance Society, Inc. failed to tender payment within thirty calendar days. The Department alleges this act is in violation of CCR §2695.7(h).

**Company Response:** The Company acknowledges this allegation. The claim specialists have been informed of the requirements of CCR §2695.7(h). Upon acceptance of a claim and receipt of a properly executed release, when necessary, claims not disputed will be paid within 30 calendar days.

**12. The Company failed to provide necessary forms, instructions, and reasonable assistance within fifteen calendar days.** In one instance, the Cumis Insurance Society, Inc. failed to provide necessary forms, instructions, and reasonable assistance within fifteen calendar days. The Department alleges these acts are in violation of CCR §2695.5(e)(2).

**Company Response:** The Company acknowledges this allegation. The claim specialists have been informed of the requirements of CCR §2695.5(e)(2). Within 15 days of receipt of a claim, we will provide to the claimant necessary forms, instructions, and reasonable assistance, including but not limited to, specifying the information the claimant must provide for proof of claim.

**13. The Company failed to respond to communications within fifteen calendar days.** In one instance, the Cumis Insurance Society, Inc. failed to respond to communications within fifteen calendar days. The Department alleges this act is in violation of CCR §2695.5(b).

**Company Response:** The Company acknowledges this allegation. The claim specialists have been informed of the requirements of CCR §2695.5(b). Upon receipt of communication that reasonably suggests a response, we will provide

the claimant with a complete response, based on facts then known, within 15 calendar days of such communication.

**14. The Company failed to include the insured's deductible in the subrogation demand.** In one instance, the Cumis Insurance Society, Inc. failed to include the insured's deductible in the subrogation demand. The Department alleges this act is in violation of CCR §2695.8(j).

**Company Response:** The Company acknowledges this allegation and reimbursed the insured accordingly.