

August 20, 1987

Memorandum for Claim Managers' Councils
re
Consent Judgment Terminating Independent Appraisal Plan

On November 27, 1963, a consent judgment and decree was entered in the United States District Court for the Southern District of New York against the Association of Casualty and Surety Companies, American Mutual Insurance Alliance and the National Association of Mutual Casualty Companies. The consent judgment and decree requires the termination of the Independent Appraisal Plan, also known as the Automotive Appraisal Plan. That consent judgment remains in effect and must be fully complied with by Claims Managers' Councils.

The consent judgement not only affects the relations between the Councils and appraisers, but also places certain restrictions upon the relations between the Councils and repair establishments. The purpose of this memorandum is to set forth certain principles which the Councils must strictly observe in relation to both appraisers and repair shops.

It should be noted that the prohibitions of the consent judgement are directed at the associations and the local Claim Managers' Councils, and not at the member companies in their own operations. Decisions respecting appraising an appraisal must be considered as the concern of each individual company exclusively.

The judgement requires an end to any sponsorship of appraisers by Councils. Councils are also forbidden under the judgement to put into effect any plan or program that is similar to the Independent Appraisal Plan.

Accordingly, the Councils may not:

1. Sponsor, endorse or otherwise recommend any appraiser of damage to automobiles;
2. Direct, advise or otherwise suggest that any person or firm do business or refuse to do business with any appraiser;
3. In any way control or regulate the fee schedules, or other practices or procedures, of appraisers, including their use of any "flat-rate manual";
4. Allocate or divide customers, territories, markets or business to or among any appraisers.

Substantially, the same rules govern Councils with regard to repair establishments. There are to be no contacts between Councils and repair shops, or committees or associations of garage owners.

Councils may not:

1. Sponsor, endorse or otherwise recommend any automotive repair shop, or negotiate with repair shops, or committees, or associations of garage owners on parts prices, labor rates or "flat-rate" time allowances;
2. Direct, advise or otherwise suggest that any person or firm do business or refuse to do business with any repair shop;