

MAR 4 1996

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

DEPARTMENT OF INSURANCE
By

In the Matter of:

NATIONAL GENERAL INSURANCE COMPANY

Respondent.

) Docket No. 96A-029

) CONSENT ORDER

The Arizona Department of Insurance ("the Department") conducted a market conduct examination of National General Insurance Company, NAIC #23728 ("National General"), by Market Conduct Examiners for the Department. The Report of Examination of the Market Conduct Affairs of National General prepared by the Examiners alleges that Respondent has violated A.R.S. § 20-385, 20-400.01, 20-462, 20-1632, and 20-1676; and A.A.C.R 20-6-801 (formerly A.A.C.R4-14-801).

The Respondent wishes to resolve this matter without formal adjudicative proceedings and agrees to this Consent Order.

The Director of Insurance of the State of Arizona (the "Director") enters the following Findings of Fact and Conclusions of Law, which are neither admitted nor denied by Respondent, and the following Order:

FINDINGS OF FACT

1. Respondent is authorized to transact property and casualty insurance pursuant to a Certificate of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct a market conduct examination of Respondent. The on-site examination was concluded as of June 14, 1994 and a Report of

1 Examination of the Market Conduct Affairs of Respondent (the
2 "Report") was written.

3 3. The Examiners reviewed 167 National General personal
4 automobile policies in force during the period covered by the
5 Examination.

6 4. National General failed to include refunds of unearned
7 premium with the notices cancelling 4 personal automobile
8 policies.

9 5. National General issued 6 personal automobile policies
10 at rates other than its filed rates by using incorrect territory
11 codes, resulting in 5 insureds paying \$181 less and 1 insured
12 paying \$40 more than they should have paid had National General
13 adhered to its filings.

14 6. The Examiners reviewed all 364 National General first
15 party automobile total loss claims settled during the period
16 covered by the Examination. As to these, National General
17 failed to:

18 a. pay 261 claimants a total of \$37,293.01 for
19 applicable taxes, license fees and other fees incident to
20 transfer of evidence of ownership of a comparable automobile;

21 b. adequately document 8 files to support a total of
22 \$3,488.52 in deductions from actual cash value;

23 c. pay 2 claims within thirty (30) days after
24 receipt of acceptable proofs of loss which contained all
25 information necessary for claim adjudication, and failed to pay
26 interest thereon at the legal rate from the date the claims were
27 received;

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1 d. determine actual cash value ("ACV") in 8 files by
2 obtaining the price of a comparable automobile in the local
3 market area or by obtaining two or more quotations from two or
4 more qualified dealers within the local market area, rather than
5 by using a service which includes sales outside of the local
6 market area.

7 7. The Examiners reviewed all 27 MIC first party
8 automobile total loss claims settled by National General during
9 the period covered by the Examination. As to these, National
10 General failed to:

11 a. pay 20 claimants a total of \$4,972.86 for
12 applicable taxes, license fees and other fees incident to
13 transfer of evidence of ownership of a comparable automobile.

14 b. adequately document 2 files to support a total of
15 \$325.00 in deductions from actual cash value;

16 8. The Examiners found that, in 24 of 30 claims processed
17 by Richard W. Maas, an adjuster employed by Respondents, the
18 Respondents initially failed to pay any sales taxes to the
19 insureds and in 4 claims, initially paid only the partial amount
20 of the taxes due. According to documentation in the files, the
21 taxes were conceded in full or part to the insureds as a tool to
22 settle the negotiations.

23 CONCLUSIONS OF LAW

24 1. By non-renewing personal auto policies which had been
25 effective for more than 60 days for reasons not permitted by
26 statute, National General violated A.R.S. § 20-1631(C).

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1 of the Order set forth hereafter, and there being no just reason
2 for delay:

3 IT IS HEREBY ORDERED THAT:

4 1. National General shall not:

5 a. fail to pay all first party automobile total loss
6 claimants for all applicable taxes, license fees and other fees
7 incident to transfer of evidence of ownership of a comparable
8 automobile;

9 b. fail to adequately document all first party
10 automobile total loss files to support deductions from actual
11 cash value;

12 c. fail to determine the actual cash value of the
13 subject automobile where a first party automobile total loss
14 claim is settled by a cash payment to the insured by obtaining
15 the price of comparable automobile in the local market area or
16 by obtaining two or more quotations from two or more qualified
17 dealers within the local market area.

18 2. Within 60 days of the filed date of this Order,
19 National General shall submit to the Director a written action
20 plan to monitor and ensure that its claims personnel and
21 independent adjusters process claims in compliance with A.R.S. §
22 20-461 and 20-462, and A.A.C. R4-14-801, including but not
23 limited to a provision that all taxes and fees due insureds be
24 offered as part of the initial claim settlement offer.

25 3. Within 60 days from the filed date of this Order,
26 National General shall reimburse the insured of Policy
27 #3189378A01 for premium overcharges of \$40.00, plus interest at
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1 the rate of 10 percent per annum, calculated from the date the
2 premium was paid by the insured to the date of payment.

3 4. Within sixty (60) days from the filed date of this
4 Order, National General shall pay the 261 insureds identified in
5 Exhibit 3 of the Report (attached to this Order as Exhibit A)
6 the total of \$41,220.28 for underpayment of sales taxes, license
7 fees and vehicle ACV, plus interest at the rate of 10 percent
8 per annum, calculated from the date the payment was due the
9 insured to the date of payment. Payments totalling \$5.00 or
10 less may be waived at the discretion of the Respondents.

11 5. Within 60 days from the filed date of this Order,
12 National General shall pay to the claimants of Claim Files
13 376265 and 455895 interest on the amount of their claims which
14 was unpaid after National General's receipt of acceptable proofs
15 of loss which contained all information necessary for claim
16 adjudication. Interest shall be paid at the rate of ten percent
17 (10%) per annum, calculated from the date the claim was received
18 to the date the claims themselves were paid.

19 6. Within 60 days from the filed date of this Order,
20 National General shall pay the 20 insureds identified in Exhibit
21 12 of the Report (attached to this Order as Exhibit B) the total
22 of \$5,297.86 for underpayment of sales taxes, license fees and
23 vehicle ACV, plus interest at the rate of 10 percent per annum,
24 calculated from the date the payment was due the insured to the
25 date of payment.

26 7. Each of the reimbursements and payments referenced in
27 paragraphs 3 through 6 above shall be accompanied by a letter to
28 the insured in a form acceptable to the Director. A list of

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reimbursements and payments, giving the name and address of each party reimbursed or paid, the amount of the reimbursement or payment, the amount of interest paid, and the date of payment, shall be provided to the ADOI within 70 days of the filed date of this Order.

8. The ADOI shall be permitted, through authorized representatives, to verify that National General has complied with all provisions of this Order.

9. Respondents shall pay a civil penalty of \$40,000 to the Director for deposit in the State General Fund in accordance with A.R.S. § 20-220(B). This civil penalty shall be provided to the Market Conduct Examinations Division of the ADOI on or before February 2, 1996.

10. The Report of Examination of the Market Conduct Affairs of Respondents as of January 4, 1994, including the letter of objections submitted in response thereto, shall be filed with the ADOI after the Director has filed this Order.

DATED at Phoenix, Arizona this 1st day of March, 1996.


Chris Herstam
Director of Insurance

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CONSENT TO ORDER

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2 1. Respondent, National General Insurance Company, has
3 reviewed the foregoing Order.

4 2. Respondent is aware of its right to a hearing, at
5 which hearing it may be represented by counsel, present evidence
6 and cross-examine witnesses. Respondent irrevocably waives its
7 right to demand a public hearing and to seek judicial review of
8 this consent order.

9 3. Respondent admits the jurisdiction of the Director of
10 Insurance, State of Arizona, and consents to the entry of this
11 Order.

12 4. Respondent states that no promise of any kind or
13 nature has been made to induce it to enter into this Consent
14 Order and that it has entered into this Consent Order
15 voluntarily.

16 5. Respondent acknowledges that the acceptance of this
17 Order by the Director of Insurance, State of Arizona, is solely
18 to settle this matter against it and does not preclude any other
19 agency or officer of the state or subdivision thereof from
20 instituting other civil or criminal proceedings as may be
21 appropriate now or in the future.

22 6. Verne E. Purvines represents that,
23 as Vice President and Secretary, he is an officer of
24 Respondent, and is been authorized to enter into this Consent
25 Order on Respondent's behalf.

NATIONAL GENERAL INSURANCE COMPANY

26
27 February 7, 1996
28 Date

By 

1 COPY of the foregoing mailed/delivered
2 this 4th day of March , 1996, to:

3 Charles R. Cohen
4 Deputy Director
5 Gregory Y. Harris
6 Executive Assistant Director
7 Lewis D. Kowal
8 Chief Administrative Law Judge
9 Erin H. Klug
10 Chief Market Conduct Examiner
11 Saul R. Saulson
12 Examinations Supervisor
13 Market Conduct, Examinations Division
14 Mary Butterfield
15 Assistant Director
16 Life & Health Division
17 Deloris E. Williamson
18 Assistant Director
19 Rates & Regulations Division
20 Gary Torticill
21 Assistant Director and Chief Financial Examiner
22 Corporate & Financial Affairs Division
23 Cathy O'Neil
24 Assistant Director
25 Consumer Services Division
26 John Gagne
27 Assistant Director
28 Investigations Division
John King
Fraud Unit Chief
Dean Ehler
Supervisor
Property and Casualty Section

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