

AUG 15 2012

DEPT OF INSURANCE
BY 

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of)
)
 NATIONAL GUARANTY)
 INSURANCE COMPANY)
 (NAIC No. 12068))
)
 Respondent.)

Docket No. 12A-106-INS

**NOTICE OF DETERMINATION,
ORDER FOR SUPERVISION
AND CONSENT THERETO**

The Arizona Department of Insurance (the "Department") has received evidence that National Guaranty Insurance Company is out of compliance with the provisions of Arizona Revised Statutes ("A.R.S.") Title 20, for the reasons set forth below, without limitation. Respondent wishes to resolve this matter without the commencement of contested proceedings, and admits the following Findings of Fact are true and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent National Guaranty Insurance Company ("Respondent") is an Arizona domiciled insurer and presently holds a certificate of authority issued by the Department to transact casualty, disability, marine and transportation, property, surety and vehicle insurance.

2. Respondent is a member of an insurance holding company system which includes its wholly owned subsidiary insurer, Driver's Insurance Company ("Driver's"), domiciled in Oklahoma, and affiliated managing general agents Lindsay General Insurance Agency LLC ("Lindsay"), MAP General Agency, Inc. ("MAP") and Destiny General Agency LLC ("Destiny"), all domiciled in Texas.

1 3. Respondent and Lindsay are parties to a Managing General Agency ("MGA")
2 Agreement wherein Lindsay writes business for Respondent, by or through agents, including
3 business written through MAP and Destiny. In its capacity as MGA, Lindsay has the authority
4 to accept policies written through agents; collect premiums and retain commissions and policy
5 fees out of such premiums; set loss reserves; and adjust and pay claims, all on behalf of
6 Respondent.

7 4. The Director completed a financial examination of Respondent as of December
8 31, 2010, and filed its examination report ("Examination Report") including the Respondent's
9 response, in accordance with A.R.S. § 20-158 and A.A.C. R20-6-1704 on August 8, 2012.
10 The Examination Report shows the Respondent to be in hazardous financial condition within
11 the meaning of A.A.C. R20-6-308(A)(1) and in violation of A.R.S. § 20-220(A)(3).

12 5. Respondent failed to file its 2011 Audited Financial Report due June 1, 2012; in
13 violation of A.R.S. § 20-223.

14 6. Driver's entered into an *Agreed Order of Supervision Instanter* on April 25, 2012
15 (Case No. 12-0371-SOL) issued by the Oklahoma Commissioner of Insurance. On July 25,
16 2012, in Case No. 12-0667-DIS, the Oklahoma Commissioner issued a *Suspension Instanter*
17 *Due to Hazardous Financial Condition* to Driver's suspending Driver's Oklahoma certificate of
18 authority and prohibiting the writing of new or renewal insurance.

19 7. On July 27, 2012, in Case No. 12-0654, the Texas Department of Insurance
20 issued *Order Creating State of Supervision and Appointing Supervisor* finding Lindsay, MAP
21 and Destiny to be in hazardous financial condition and placing all three managing general
22 agents in supervision.
23

1 8. The Respondent has consented to the entry of this Order.

2 9. The continuation of Respondent's insurance policies would place the
3 Respondent in violation of the laws of the state of Arizona and further jeopardize its solvency
4 within the meaning of A.R.S. § 20-1631(D)(6).

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7 **CONCLUSIONS OF LAW**

8 1. The Acting Director of the Department (the "Director") has jurisdiction over this
9 matter.

10 2. Respondent violated A.R.S. §§ 20-210, 20-211, 20-220(A)(3), and 20-223.

11 3. Respondent is in such condition as to render its further transaction of insurance
12 in this state hazardous to policyholders or to the people of this state within the meaning of
13 A.A.C. R20-6-308 and A.R.S. §20-169.

14 4. Grounds exist for the Director to order corrective actions pursuant to A.A.C.
15 R20-6-308(C) including but not limited to reducing, suspending or limiting the volume of
16 insurance risk being accepted or renewed.

17 5. Grounds exist for the Director to place the Respondent under supervision of the
18 Department in accordance with A.R.S. § 20-169, including the Respondent's consent.

19 **THEREFORE, IT IS ORDERED:**

20 1. Respondent is hereby notified of the determination of the Director to place
21 Respondent under the supervision of the Department in accordance with A.R.S. § 20-169.
22
23

1 2. Respondent is hereby under the supervision of the Director and the Director is
2 applying and effectuating the provisions of A.R.S. Title 20, Chapter 1, Article 2 pursuant to
3 A.R.S. § 20-169(3).

4 3. Unless otherwise approved by the Director or her Supervisor, Respondent shall
5 cease writing and/or issuing all new and renewal insurance business, including but not limited
6 to, Arizona motor vehicle policies pursuant to A.R.S. §20-1631(D)(6), effective immediately,
7 except that Respondent shall extend existing policies for the minimum period necessary to
8 provide timely notice of non-renewal as required by A.R.S. § 20-1632(A), other state renewal
9 requirements, and the insured's policy.

10 4. Pursuant to A.R.S. § 20-170, the Director hereby appoints Kristine Williams of
11 Tharp and Associates, Inc. as Supervisor of the Respondent.

12 5. Pursuant to A.R.S. § 20-170, the Director orders that Respondent, during the
13 period of Supervision, may not do any of the following things without the prior written approval
14 of the Director or her Supervisor:

- 15 a. Dispose of, convey or encumber any of its assets or its business in force;
- 16 b. Withdraw any of its bank accounts;
- 17 c. Lend any of its funds;
- 18 d. Invest any of its funds;
- 19 e. Transfer any of its property;
- 20 f. Incur any debt, obligation or liability, either direct or contingent;
- 21 g. Merge or consolidate with another company;
- 22 h. Pay any dividends; or

1 j. Terminate, amend, or enter into any contracts including reinsurance treaties or
2 contracts.

3 6. In order to abate the Director's determination, Respondent must meet the
4 following:

5 a. Respondent must demonstrate that it has capital and surplus as required by
6 A.R.S. § 20-210 and 20-211;

7 b. Respondent must demonstrate that it has cured its hazardous financial
8 condition;

9 c. Respondent must demonstrate that it has unencumbered assets in an amount
10 equal to, its ultimate estimated loss reserves for unpaid claim liabilities/loss adjustment
11 expenses, and all other obligations as they come due;

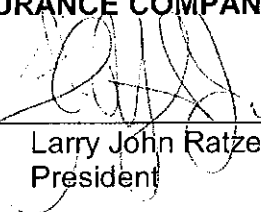
12 d. Respondent must submit a written plan satisfactory to the Supervisor and the
13 Department that: (i) returns Respondent to a financially stable condition, includes steps to
14 prevent Respondent from future hazardous financial conditions, contains financial projections
15 that demonstrate that Respondent's future financial condition complies with all statutory and
16 regulatory requirements, and sets forth operational reforms necessary to come into and
17 maintain compliance with all statutory and regulatory requirements; or (ii) facilitates an orderly
18 wind down of the Respondent's insurance obligations. The implementation of Respondent's
19 plan is subject to the express written approval of the Director.

20 7. If Respondent fails to satisfy the requirements to abate the Director's
21 determination within sixty (60) days from the date hereof, the Director may take appropriate
22 action including but not limited to commencing a conservatorship pursuant to A.R.S. § 20-
23 171.

1 5. Respondent acknowledges that the acceptance of this Notice of Determination,
2 Order for Supervision and Consent Thereto by the Director is solely to settle this matter
3 against it and does not preclude any other agency, officer or subdivision of this State from
4 instituting civil or criminal proceedings as may be appropriate now or in the future.

**NATIONAL GUARANTY
INSURANCE COMPANY**

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7 Dated this 15th day of August, 2012.


By: Larry John Ratzel, Jr.
Its: President

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9
10 COPY of the foregoing mailed/delivered
this 15th day of August, 2012, to:

11
12 Larry John Ratzel, Jr.
13 National Guaranty Insurance Company
1855 Satellite Boulevard, Suite 100
Duluth, Georgia 30097


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16 Kristine Williams
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