

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

Docket No. 20A-033-INS

**NATIONAL GENERAL INSURANCE
COMPANY**

CONSENT ORDER

NAIC # 23728

Respondent.

Examiners for the Arizona Department of Insurance (the “Department”) conducted a target market conduct examination of National General Insurance Company. In the Report of Target Market Conduct Examination of the market conduct affairs of National General Insurance Company, the examiners allege that National General Insurance Company violated Arizona Revised Statutes (A.R.S.) §§ A.R.S. 20-466, 20-442, 20-443, 20-444 , 20-443, 20-259.01, 20-191, 20-263, 20-385, 20-2110, 20-460, 20-466.03, 20-461, 20-462 and Arizona Administrative Code (“A.A.C”) R20-6-801.

National General Insurance Company wishes to resolve this matter without formal proceedings, admits that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. National General Insurance Company (“NGIC” or “Respondent”) is authorized to transact casualty, without worker’s compensation, property and vehicle insurance pursuant to a Certificate of Authority issued by the Director of the Arizona Department of Insurance (“Director”).

2. The Director authorized the examiners to conduct a target market conduct examination of Respondent. The examination covered the time period from July 1, 2017 through December 31, 2018 and concluded on February 4, 2020. Based on their findings, the examiners prepared the Report of Target Market Conduct Examination of National General Insurance Company (“Report”) dated December 31, 2018. The examination found:

1 a. Respondent failed to refer to the Department a claim denied for material
2 misrepresentation as a suspected fraud claim which resulted in 1 statutory violation.

3 Respondent has policies and procedures in place to ensure NGIC refers suspected fraud
4 claims to the Department as described in NGIC's Claims Handling Guidelines.

5 b. Respondent failed to clearly identify the entity providing insurance coverage. The
6 examiners reviewed 300 of 21,230 new business and renewals of motorcycle ("MC"), private
7 passenger automobile ("PPA") and recreational vehicle ("RV") policies issued during the time
8 frame of the examination. The examination found that Respondent failed to clearly identify the
9 entity providing insurance coverage in at least 170 instances. Respondent issued policies with the
10 name and logo of "Good Sam Vehicle Insurance Plan" or "NRLCA Vehicle Insurance Plan" rather
11 than the registered "doing business as" name. Neither of those names was registered or licensed
12 with the Department. This deficiency resulted in 170 statutory violations.

13 Respondent modified its advertising, sales and policyholder materials to ensure the proper
14 entity providing insurance coverage is clearly represented.

15 c. Respondent withdrew its cancellation fee rule for new business and renewal policies,
16 effective July 29, 2016 and September 3, 2016, respectively. The examination disclosed at least
17 three (3) invoice forms, pertinent to the policies purchases or renewed after the effective dates,
18 containing a statement "a fifty-dollar (\$50) cancellation fee will be applied."

19 Respondent revised all of its invoice forms to remove the statement "a fifty-dollar (\$50)
20 cancellation fee will be applied."

21 d. Respondent failed to secure and retain signed underinsured and uninsured motorist
22 coverage selection forms for new MC insurance policies. The examination disclosed fifteen (15)
23 violations within the fifty (50) reviewed files.

24 e. Respondent's billing notices included a statement that the premium is to be mailed
25 seven (7) days before the due date and that the postmark is not sufficient proof of the payment date.
26 The examination disclosed ninety-four (94) violations within the 300 reviewed files.

1 Respondent revised all of its billing notices to remove the statement that the premium is to
2 be mailed seven (7) days before the due date and that the postmark is not sufficient proof of the
3 payment date.

4 f. Respondent failed to provide sufficient evidence that an accident listed on a
5 Comprehensive Loss Underwriting Exchange (“C.L.U.E.”) Report was caused or significantly
6 contributed to by the actions of the insured. The examination disclosed thirty-one (31) violations
7 within the 300 reviewed files.

8 g. Respondent failed to file with the Department a MC model year/vehicle age factor
9 for comprehensive and collision coverages prior to applying this factor to determine policy
10 premium. The issue began on October 18, 2011 for MC new business and on November 18, 2011
11 for MC renewal policies. The examination disclosed three (3) violations within the 100 reviewed
12 files. Additionally, Respondent conducted a self-audit and determined that 100 MC new business
13 and ninety-nine (99) MC renewal policies were impacted by this deficiency, resulting in \$14,871.93
14 of overcharges and \$391 of undercharges.

15 On November 5, 2019, Respondent issued refund checks to the insureds for overcharges and
16 interest due of \$14,872.15 and \$8,981.07, respectively. Respondent also filed with the Department a
17 MC model year/vehicle age factor scheduled to take effect on September 13, 2019 for new business
18 and on October 19, 2019 for renewal policies.

19 h. Respondent failed to file with the Department factors and base rates prior to
20 applying them in determining policy premiums for PPA and RV new business and renewal policies.
21 The examiners reviewed 200 files and found the following:

22 i. Respondent applied an accident forgiveness factor that was not filed with the
23 Department. The premium charged to policyholders was not consistent with filings with the
24 Department. The issue began on June 1, 2013. The examination disclosed thirty-four (34) violations
25 within the 200 reviewed files. However, Respondent’s self-audit determined 1,058 policies were
26 impacted with overcharges of \$1,293.21.

1 Respondent issued refund checks to the insureds for the overcharges and interest due in the
2 amounts of \$1,293.21 and \$317.56, respectively. Respondent also filed with the Department an
3 accident forgiveness factor scheduled to take effect on December 13, 2019 for new business and on
4 January 18, 2020 for renewal policies.

5 ii. Respondent applied an accidental death and dismemberment base rate that included
6 an increased limit factor for individual plans two (2) through seven (7) and all of its family plans.
7 According to the rating algorithm filed with the Department, the increased limit factor would then
8 be applied again to determine premium, resulting in a policyholder being charged twice for the
9 increased limit factor. The Respondent failed to follow the filed rating algorithm. Respondent's
10 self-audit determined that the incorrect implementation began on June 1, 2013 for PPA and RV new
11 business and on December 1, 2013 for PPA and RV renewal policies. However, this deficiency did
12 not affect the premium. The examination disclosed fifty-three (53) violations within the 200
13 reviewed files.

14 On November 19, 2019, Respondent submitted SERFF filing #GMMX-132160775 to show
15 the base rate and increased limit factor separately effective December 13, 2019 for new business
16 and January 19, 2020 for renewal business.

17 iii. Respondent applied a PPA model year/vehicle age factor to comprehensive and
18 collision coverage that was not filed with the Department. The examination disclosed fifty-five (55)
19 violations within the 100 reviewed files. However, Respondent's self-audit determined 1,100 PPA
20 new business and 3,786 PPA renewal policies were impacted with overcharges of \$2,120.29 and
21 undercharges of \$177,999.21. The issue began on May 26, 2017 for PPA new business and on July
22 1, 2017 for renewal business.

23 On November 11, 2019, Respondent issued refund checks to the insureds for the
24 overcharges and interest due in the amounts of \$2,120.29 and \$526.37, respectively. Respondent
25 also filed with the Department a model year/vehicle age factor that took effect on November 10,
26 2017 for new business and on December 16, 2017 for renewal policies.

1 iv. Respondent applied a PPV new business discount factor that was not filed with the
2 Department. The examination disclosed ninety-five (95) violations within the 100 reviewed files.
3 However, Respondent's self-audit determined 18,784 PPA new business and 36,965 PPA renewal
4 policies were impacted by this deficiency. The issue began on August 23, 2013 for PPV new
5 business and renewal policies. All of Respondent's policyholders were undercharged.

6 Respondent resolved the system failure issue by modifying its system to match its filing
7 effective December 13, 2019 for new business and January 18, 2020 for renewal business.

8 v. Respondent failed to apply a multiple RV owner surcharge when determining policy
9 premium. The issued began on April 1, 2011 for RV new business and renewal policies.
10 Respondent's self-audit determined one (1) RV new business and three (3) RV renewal policies
11 were impacted with undercharges of \$391. This deficiency resulted in one (1) statutory violation.

12 Respondent resolved the system failure issue on June 7, 2018.

13 vi. Respondent failed to apply a correct bodily injury model year factor for the year
14 2017. This issue began on October 7, 2016 for PPA new business and renewal policies.
15 Respondent's self-audit determined 200 PPA new business and four 475 PPA renewal policies were
16 impacted with undercharges of \$32,036.88. This deficiency resulted in one (1) statutory violation.

17 Respondent resolved the system failure upon discovering the issue.

18 vii. Respondent's own rating system audit determined the driver class factor table for
19 medical payments coverage failed by showing a different factor than the one company applied.
20 Respondent's self-audit determined 1,271 RV new business and 2,219 renewal policies were
21 impacted with undercharges of \$17,079. The issue began on May 26, 2017 for RV new business
22 and renewal policies. This deficiency resulted in one (1) statutory violation.

23 Respondent resolved the factor tables for the May 26, 2017 rate revision on August 9, 2018.

24 i. Respondent failed to provide a specific reason for an adverse underwriting decision
25 in writing or advise the person in writing that, upon written request, the person may receive the
26 specific reason for an adverse decision in writing. The examination disclosed twenty-three (23)

1 violations within the 250 reviewed files.

2 Respondent modified applicable forms and has procedures and controls in place to ensure it
3 provides the specific reason for the adverse underwriting decision in writing or advise the person, in
4 writing, that upon written request the person may receive the specific reason in writing.

5 j. Respondent failed to show that it does not exclusively offer certain programs to only
6 certain exclusive producers, without also offering those same programs to all of its authorized
7 insurance producers, in violation of state statute.

8 k. Respondent failed to include the required statutory language pertaining to knowingly
9 presenting a false or fraudulent claim for payment of a loss on its estimate of physical damage
10 forms. The examination disclosed four (4) violations within the fifty (50) reviewed files.

11 Respondent modified its claims forms to include the required fraud warning on November
12 20, 2019.

13 l. Respondent failed to respond within ten (10) business days to communications
14 received from claimants. In at least nine (9) instances, Respondent failed to timely respond to
15 claimants who submitted photographs of the damages for an estimate, to timely respond to counter
16 offers, and/or to timely respond to correspondence/telephone calls. The examination disclosed nine
17 (9) violations within the fifty (50) reviewed files.

18 Respondent has written procedures and controls in place to ensure it responds within ten
19 (10) working days to communications received from claimants.

20 m. Respondent failed to investigate claims within thirty (30) days from the date of
21 receipt. Respondent's business practices displayed unnecessary delays to assess liability, to address
22 the claimant's damages and/or to address the estimate of damages. On multiple occasions,
23 Respondent requested unnecessary additional pictures of damages or resubmission of a claim form.
24 The examination disclosed eleven (11) violations within the fifty (50) reviewed files.

25 Respondent has written procedures and controls in place to ensure NGIC completes
26 investigation of a claim within thirty (30) days after notification of claim.

1 n. Respondent failed to pay the interest of ten percent (10%) on a first party claim not
2 paid within thirty (30) days after the receipt of an acceptable proof of loss. The examinations
3 disclosed five (5) violations within the five (5) reviewed files.

4 On October 17, November 13, and November 19 of 2019, Respondent issued interest
5 payments totaling \$7,335.39 to five (5) claimants.

6 o. Respondent failed to acknowledge the receipt of a subrogation claim within ten (10)
7 business days. In at least nine (9) instances, Respondent failed to send an acknowledgement letter
8 and in at least two (2) instances, the acknowledgement letter was sent after the required deadline.
9 The examination disclosed eleven (11) violations within the fifty (50) reviewed files.

10 p. Respondent failed to, upon request, provide to the Department with the complete
11 subrogation files needed to reconstruct the events of customer's claims. The files were missing
12 either notes or documentation verifying the insured received the deductible reimbursement. The
13 examiners could not determine the date the insured was reimbursed or the date the claim was
14 closed. The examination disclosed six (6) violations within the fifty (50) reviewed files.

15 Respondent has written procedures and controls in place to ensure it provides complete
16 claim files in such detail that pertinent events and the dates of such events can be reconstructed.

17 **CONCLUSIONS OF LAW**

18 1. Respondent violated A.R.S. §20-466 (G) by failing to refer a suspected fraud claim
19 to the Department.

20 2. Respondent violated A.R.S. §20-442, 20-443 and 20-444 (B) by failing to clearly
21 identify the company providing insurance coverage.

22 3. Respondent violated A.R.S. §20-443 by including cancellation fee policy that was
23 previously withdrawn on file with the Department.

24 4. Respondent violated A.R.S. §20-259.01 (A) and A.R.S. §20-259.01 (B) by failing to
25 secure and retain signed underinsured and uninsured motorist coverage selection forms.

26 5. Respondent violated A.R.S. §§20-191 (A) and (B) by including on its premium

1 billing notices a statement that the premium payment was to be mailed seven (7) days before the
2 due date and that the postmark is not sufficient proof of date of payment.

3 6. Respondent violated A.R.S. §20-263 by failing to provide sufficient evidence that an
4 accident listed on a C.L.U.E. Report was caused or significantly contributed to by the actions of the
5 insured.

6 7. Respondent violated A.R.S. §20-385 (A) by:

7 a. Failing to file with the Department and receive approval for a MC model
8 year/vehicle age factor prior to applying it to determine policy premiums for comprehensive and
9 collision coverages.

10 b. Failing to file with the Department and receive approval for an accident forgiveness
11 factor prior to applying it to determine policy premiums.

12 c. Failing to accurately apply an accidental death and dismemberment base rate that
13 included an increase limit factor.

14 d. Failing to file with the Department and receive approval for a PPA model
15 year/vehicle age factor prior to applying it to the comprehensive and collision coverages.

16 e. Failing to file with the Department and receive approval for a new business discount
17 factor prior to applying it to determine policy premiums.

18 f. Failing to apply a multiple RV owner surcharge.

19 g. Failing to apply a correct bodily injury model year factor for the year 2017.

20 h. Failing to apply a correct driver class factor for medical payments coverage.

21 8. Respondent violated A.R.S. §20-2110 (A) by failing to provide a specific reason for
22 the adverse underwriting decision in writing.

23 9. Respondent violated A.R.S. §20-460 by failing to ensure all its products are
24 available to all of Respondent's authorized insurance producers.

25 10. Respondent violated A.R.S. §20-466.03 (A) by failing to include on its estimate of
26 physical damage forms the fraud warning notice in at least 12 point type.

1 3. The Department shall, through authorized representatives, verify that National
2 General Insurance Company has complied with all provisions of this Order.

3 4. National General Insurance Company (“NGIC”) shall pay a civil penalty of
4 \$75,000.00 to the Director for remission to the State Treasurer for deposit into the State General
5 Fund in accordance with A.R.S. §20-220(B). NGIC shall submit the civil penalty to the Market
6 Regulation and Consumer Services Division of the Department prior to the filing of this Order.

7 5. The Report of Target Market Examination of NGIC of December 31, 2018 including
8 the letter with NGIC’s objections to the Report of Target Market Examination, shall be filed with
9 the Department upon the filing of this Order.

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DATED at Arizona this 19 day of July, 2020.

Erin H. Klug

Erin H. Klug, Interim Deputy Director for
Christina Corieri, Interim Director
Arizona Department of Insurance

1 **CONSENT TO ORDER**

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

3 2. National General Insurance Company admits the jurisdiction of the Director of
4 Insurance, State of Arizona, admits the foregoing Findings of Fact, and consents to the entry of the
5 Conclusions of Law and Order.

6 3. National General Insurance Company is aware of its right to a hearing, at which it
7 may be represented by counsel, present evidence and cross-examine witnesses. National General
8 Insurance Company irrevocably waives its right to such notice and hearing and to any court appeals
9 related to this Order.

10 4. National General Insurance Company states that no promise of any kind or nature
11 whatsoever was made to it to induce it to enter into this Consent Order and that it has entered into
12 this Consent Order voluntarily.

13 5. National General Insurance Company acknowledges that the acceptance of this
14 Order by the Director of the Arizona Department of Insurance is solely for the purpose of settling
15 this matter and does not preclude any other agency or officer of this state or its subdivisions or any
16 other person from instituting proceedings, whether civil, criminal, or administrative, as may be
17 appropriate now or in the future not related to this matter.

18 6. Jeffrey Weissmann, who holds the office of
19 Secretary and General Counsel of National General Insurance Company, is authorized to enter into
20 this Order for them and on their behalf.

21 **NATIONAL GENERAL INSURANCE COMPANY**

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24 7/13/2020

25 Date

By

Jeffrey Weissmann

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COPIES of the foregoing **E-MAILED** this
20th day of July, 2020, to:

Robin Lopez, Market Conduct Specialist
National General Insurance Company
5630 University Parkway
Winston-Salem, North Carolina 27105
Robin.Lopez@ngic.com

COPIES of the foregoing delivered, same date to:

Catherine M. O'Neil, Consumer Legal Affairs Officer
Deian Ousounov, Regulatory Legal Affairs Officer
Maria Ailor, Assistant Director
Sarah Borunda, Market Conduct Manager
Cheryl Hawley, Senior Market Analyst
Linda Lutz, Legal Assistant
Arizona Department of Insurance
100 North 15th Avenue, Suite 261
Phoenix, AZ 85007-2630

Ana Starcevic for

Francine Juarez