

DEC 10 2002

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY CR

In the Matter of:

STATE NATIONAL INSURANCE COMPANY, INC.,

NAIC # 12831,

Respondent.

) Docket No. 02A-207-INS

) **CONSENT ORDER**

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of State National Insurance Company, Inc. ("SNIC," or "Company"). In the Report of Examination of the Market Conduct Affairs of SNIC, the Examiners allege that SNIC violated A.R.S. §§ 20-385, 20-400.01, 20-443, 20-466.03, and 20-1632.01.

SNIC 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, without admission for or about other parties referred to herein.

FINDINGS OF FACT

1. SNIC 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 SNIC. The Examiners reviewed the personal automobile and commercial lines of business. The on-site examination covered the time period from January 1, 2000 to June 30, 2001 and was concluded on January 31, 2002. Based on

1 their findings, the Examiners prepared the "Report of Examination of the Market
2 Conduct Affairs of State National Insurance Company" dated January 31, 2002.

3 **PERSONAL AUTOMOBILE LINES**

4 3. SNIC entered into a General Agency Agreement with Associated General
5 Agency ("AGA"), effective July 1, 1999. AGA's President signed the agreement on
6 August 26, 1999 and SNIC's President signed the agreement on April 13, 2000. SNIC
7 failed to adequately monitor AGA's underwriting practices, rating procedures, renewal
8 and/or cancellation practices, and claims processing procedures to verify that AGA was
9 in compliance with Arizona insurance statutes and rules and/or the terms of the
10 General Agency Agreement.

11 4. SNIC's Managing General Agent, AGA, was responsible, on behalf of
12 SNIC, for the marketing, underwriting, and claims processing for SNIC's personal
13 automobile insurance business. AGA utilized the services of 101 independent Arizona
14 producers to solicit business on its behalf. On September 14, 2001, SNIC notified AGA
15 that the Arizona Automobile Program was discontinued as of that date. On October 9,
16 2001, SNIC notified the Director of its intention to discontinue writing personal
17 automobile insurance in Arizona. AGA, on behalf of SNIC, continued to write personal
18 automobile business in Arizona after SNIC had served notice that AGA should
19 immediately discontinue writing new business (approximately 3,000 new policies were
20 written by AGA after September 14, 2001). SNIC ultimately transferred the
21 responsibilities for administering its personal automobile insurance program to
22 Wellington Financial Services ("WFS") effective December 1, 2001.

23 5. The Examiners reviewed 104 of 9,743 new business and renewal
24 personal automobile policies administered by AGA, on behalf of SNIC, during the time
25 frame of the examination and found as follows:

1 a. AGA, on behalf of SNIC, relied on its producers to rate and
2 underwrite SNIC's personal automobile policies. AGA did not utilize its computer
3 system's capability to rate policies so it could not verify the accuracy of the producer's
4 rating. The producer quoted the policy premium, usually using a computerized rating
5 program provided by a vendor. If the applicant wished to purchase a policy, the
6 producer uploaded the rating worksheet to AGA. AGA was not provided with and did
7 not require an application, and therefore could not verify the information on the
8 worksheet. AGA did not require any substantiating documentation to verify if the
9 applicant was entitled to receive discounts or credits (such as for home ownership or
10 for having prior insurance). There was also no evidence that AGA ordered Motor
11 vehicle Records or any other report to verify the applicant's driving record or loss
12 history on any of the policies that were issued. AGA underwrote SNIC's personal
13 automobile business and yet did not have an application nor any supporting
14 documentation. AGA processed the rating worksheets without any underwriting or
15 rating review whatsoever. SNIC failed to identify these underwriting and rating
16 deficiencies.

17 b. AGA, on behalf of SNIC, issued policies using rates that were
18 effective on July 1, 1999. On January 1, 2000, AGA, on behalf of SNIC, changed the
19 rates by applying a 10% credit on all rate worksheets that were uploaded to AGA.
20 AGA, on behalf of SNIC, changed the rates again in September 2000 by revising its
21 automobile symbols and factors that resulted in a premium difference from the filed
22 rates. AGA, on behalf of SNIC, revised the discounts on February 1, 2001. Another
23 set of rates were effective April 1, 2001. AGA, on behalf of SNIC, also had revised the
24 rating rules of January 15, 2001, February 1, 2001, and April 15, 2001. The
25 Department has no record of any rate or rule filing from SNIC, except for the original

1 filing of July 1, 1999. SNIC filed then current rates and rules with the Department prior
2 t the conclusion of the Examination, effective October 22, 2001.

3 c. AGA, on behalf of SNIC used unfiled rates in the premium
4 determination of 104 policies. The application of these incorrect rates resulted in
5 overcharges of \$851.28. The Company refunded the payments, plus interest, during
6 the course of the examination. SNIC failed to identify these deficiencies. AGA not only
7 failed to use the rates filed by SNIC on July 1, 1999, but also independently modified
8 rates and rules as well.

9 d. AGA's system was unable to issue renewal policies automatically.
10 AGA would send a list of expiring policies to the producers who were requested to
11 complete a new application, rate the policy, and submit it to AGA. In the renewal
12 process, AGA did not have a mechanism in place to verify the rate used by the
13 producer.

14 6. The Examiners reviewed 116 of 14,265 personal automobile policies
15 canceled by AGA, on behalf of SNIC, during the time frame of the examination and
16 found as follows:

17 a. AGA required its producers to submit a new application and a
18 check for the down payment or full premium in order to get a renewal policy.

19 b. In its explanation of the renewal procedures used in Arizona, AGA
20 failed to address what actions it would take if no renewal application was received.
21 AGA was unable to provide any evidence of the existence of a notice used to cancel a
22 personal automobile policy at renewal for either nonpayment of premium or
23 underwriting reasons. AGA's renewal procedures were not consistent with SNIC's
24 policy language. AGA misrepresented the terms and conditions of the policies that it
25

1 underwrote by failing to adhere to the policy language that states that the Company will
2 mail a cancellation notice to the policyholder:

3 i. "not less than seven days after the premium due date if
4 cancellation is for non-payment of premium."

5 ii. "at least ten days before the effective date of cancellation
6 for reasons other than non-payment of premium."

7 c. AGA was unable to provide the Examiners with evidence of the
8 existence of a notice canceling a personal automobile policy at renewal for either non-
9 payment of premium or underwriting reasons.

10 7. On September 14, 2001, SNIC served notice to AGA that SNIC was
11 discontinuing its Arizona personal automobile insurance program as of that date. After
12 receiving this notice, AGA sent approximately 3,000 notices of cancellation on policies
13 issued within the prior 60 days. The notices gave the insureds only eight days notice
14 of the cancellation rather than the ten days required by policy language. When the
15 Examiners notified AGA of the problem, AGA sent another notice of cancellation giving
16 the insureds ten days notice. However, AGA followed this second notice of
17 cancellation with a Notice of Reinstatement, dated December 10, 2001, which voided
18 both cancellation notices. Sending a cancellation notice that conflicts with the
19 language in the policy misrepresents the terms and conditions of the policy.

20 8. The Examiners reviewed 50 of 802 personal automobile claims closed
21 without payment by AGA, on behalf of the Company, during the time frame of the
22 Examination and found that when AGA denied a claim, no claim number was assigned
23 and only a letter of denial was sent to the insured. Therefore, no claim denials
24 appeared on the computer listing. Two boxes of denial letters were delivered to
25 Mustang Claim Services ("MCS") from AGA, after the Examiners had left the

1 examination site. MCS is reviewing all of the denials to ascertain if coverage existed at
2 the time of loss. MCS will reopen and pay claims if the claim was wrongfully denied.

3 **COMMERCIAL LINES**

4 8. Reliant American General Agency ("Reliant"), on behalf of SNIC pursuant
5 to an agreement, was responsible for the marketing, underwriting, and claims
6 processing for SNIC's commercial automobile and general liability business.

7 9. The Examiners reviewed 37 commercial automobile policies out of a
8 population of 286 commercial policies issued during the time frame of the examination
9 and found that Reliant, on behalf of SNIC, used unfiled rates in the premium
10 determination of 11 policies. The application of these unfiled rates resulted in
11 overcharges of \$522.00. SNIC refunded the payments, plus interest, during the course
12 of the examination.

13 10. The Examiners reviewed 16 commercial general liability policies out of a
14 population of 286 commercial policies issued by Reliant, on behalf of the Company,
15 during the time frame of the Examination and found that Reliant used unfiled rates in
16 the premium determination of four policies. The application of these unfiled rates
17 resulted in overcharges of \$433.00. SNIC refunded the payments, plus interest, during
18 the course of the examination.

19 11. The Examiners reviewed the claims forms utilized by Reliant and its
20 claims service providers during the time frame of the Examination and found that
21 Reliant, on behalf of SNIC, used commercial lines claim forms that failed to contain a
22 compliant fraud warning notice.

ORDER

IT IS HEREBY ORDERED THAT:

1. SNIC shall cease and desist from the following acts:

a. Failing to determine the premiums of personal automobile policies in accordance with its filed rates and rules.

b. Implementing personal automobile cancellation procedures that are inconsistent with the policy language.

c. Failing to provide personal automobile insureds with a compliant notice of cancellation.

d. Failing to determine the premiums of commercial policies in accord with its filed rates and rules.

e. Failing to include a compliant fraud warning notice on its commercial claims forms.

2. Both the personal automobile program and the commercial automobile program are currently being run off by SNIC. Ninety days prior to the issuance of new business in either of these lines, SNIC shall submit to the Arizona Department of Insurance, for approval, evidence that corrections have been implemented and communicated to the appropriate personnel regarding the issues outlined in Paragraph 1 of the Order section of this Consent Order. Evidence of corrective action and communication thereof includes, but is not limited to, memos, bulletins, E-mails, correspondence, procedures manuals, print screens, and training materials.

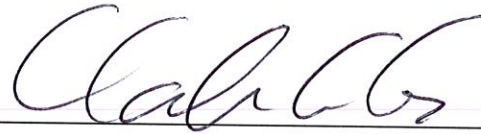
3. The Department shall be permitted, through authorized representatives, to verify that SNIC has complied with all provisions of this Order.

4. SNIC shall pay a civil penalty of \$110,000.00 to the Director for remission to the State Treasurer for deposit in the State General Fund in accordance with A.R.S.

1 §§ 20-220(B) and 20-456. The civil penalty shall be provided to the Market Conduct
2 Examination Section of the Department prior to the filing of this Order.

3 5. The Report of Examination of the Market Conduct Affairs of State
4 National Insurance Company, Inc. as of January 31, 2002 including the letter of
5 objection to the Report of Examination shall be filed with the Department upon the filing
6 of this Order.

7 DATED at Phoenix, AZ this 10th day of December, 2002.

8
9 

10
11 Charles R. Cohen
12 Director of Insurance
13
14
15
16
17
18
19
20
21
22
23
24
25

CONSENT TO ORDER

1
2 1. State National Insurance Company, Inc. has reviewed the foregoing
3 Order.

4 2. State National Insurance Company, Inc. admits the jurisdiction of the
5 Director of Insurance, State of Arizona, admit the foregoing Findings of Fact, and
6 consent to the entry of the Conclusions of Law and Order.

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

11 4. State National Insurance Company, Inc. states that no promise of any kind
12 or nature whatsoever was made to them to induce them to enter into this Consent Order
13 and that they have entered into this Consent Order voluntarily.

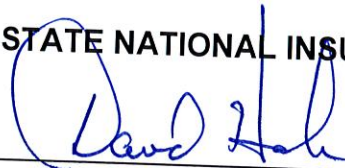
14 5. State National Insurance Company, Inc. acknowledges that the
15 acceptance of this Order by the Director of the Arizona Department of Insurance is
16 solely for the purpose of settling this matter and does not preclude any other agency or
17 officer of this state or its subdivisions or any other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

19 6. David Hale, who holds the office of
20 Treasurer of State National Insurance Company, Inc., is
21 authorized to enter into this Order for them and on their behalf.

STATE NATIONAL INSURANCE COMPANY, INC.

22
23
24 11/21/02
25 Date

By



1 COPY of the foregoing mailed/delivered
2 this 10th day of December, 2002, to:

3 Sarah Begley
4 Deputy Director
5 Mary Butterfield
6 Assistant Director
7 Consumer Affairs Division
8 Paul J. Hogan
9 Chief Market Conduct Examiner
10 Deloris E. Williamson
11 Assistant Director
12 Rates & Regulations Division
13 Steve Ferguson
14 Assistant Director
15 Financial Affairs Division
16 Alan Griffieth
17 Chief Financial Examiner
18 Alexandra Schafer
19 Assistant Director
20 Life and Health Division
21 Terry L. Cooper
22 Fraud Unit Chief

23 DEPARTMENT OF INSURANCE
24 2910 North 44th Street, Suite 210
25 Phoenix, AZ 85018

State National Insurance Company, Inc.
Scott Rule, General Counsel
P.O. Box 24622
Fort Worth, TX 76124

21 Kathy Linder
22 _____
23
24
25