

REPORT ON
THE MARKET CONDUCT EXAMINATION
OF
National General Assurance Company

NAIC Company Code: 42447

As of

June 30, 2008

State of Rhode Island
Department of Business Regulation
Insurance Division

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
INSURANCE DIVISION
1511 Pontiac Ave. -- Bldg. 69-2
Cranston, RI 02920

IN THE MATTER OF:)

NATIONAL GENERAL ASSURANCE COMPANY)

DBR No. 09-19

Respondent.)

CONSENT AGREEMENT

It is hereby agreed between the Department of Business Regulation ("Department") and the National General Assurance Company ("Respondent") as follows:

1. Pursuant to R.I. Gen. Laws § 27-13.1-4, the Department initiated a Market Conduct Examination ("Examination") in order to evaluate Respondent's compliance with applicable R. I. Gen. Laws and Rhode Island Insurance Regulations.
2. The Examination was completed and a report was issued on February 2, 2009.

WHEREFORE, based on the foregoing, Respondent and the Department have decided to resolve this matter without further administrative proceedings and hereby agree to the following resolution:

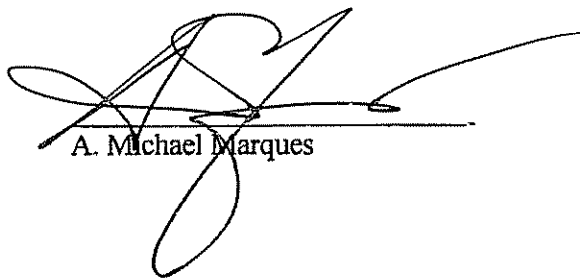
1. The Examination concluded that Respondent failed to comply with Rhode Island Insurance Regulation 73 and Insurance Bulletin Number 2004-3, when 33 claims paid on total losses on private passenger automobiles did not contain the vehicle valuation reports which document the actual cash value for the vehicles, during the period under examination from 1-1-07 through 6-30-08.

2. The Examination concluded that Respondent failed to comply with Rhode Island Gen. Laws §27-9.1-4(a)(20) in maintaining a system in its entirety in the appraisal of a motor vehicle and retain copies of all documents utilized to evaluate the actual cash value of a total loss vehicle, during the examination period from 1-1-07 through 6-30-08. In order to resolve the issue, Respondent agreed to implement a system to properly evaluate the actual cash value of a total loss vehicle and retain copies of all documentation.

For all of the violations detailed herein, Respondent is ordered to pay an administrative penalty of sixteen thousand five hundred dollars (\$16,500).

Department and Respondent hereby consent and agree to the foregoing on this 6th day of March 2009.

Department of Business Regulation
By its Director,



A. Michael Marques

Respondent,

Nancy M. Long
Name

Nancy M. Long
Print Name

Compliance Manager
Title

TABLE OF CONTENTS

| | Page Number |
|-------------------------------|--------------------|
| Salutation | 3 |
| Foreword | 4 |
| Scope of Examination | 4 |
| Profile of Company | |
| History | 5 |
| Operations | 6 |
| Management | 6 |
| Private Passenger Automobile | |
| Premium Installment Plans | 7 |
| Cancellations and Nonrenewals | 7 |
| Claims Paid on Total Losses | 8 |
| Summary of Recommendations | 10 |
| Conclusion | 11 |

Cranston, Rhode Island

February 2, 2009

Honorable A. Michael Marques
Insurance Commissioner
State of Rhode Island

Commissioner:

In accordance with your instructions, and pursuant to the statutes of the State of Rhode Island, a Market Conduct Examination was conducted of the:

NATIONAL GENERAL ASSURANCE COMPANY

500 West Fifth Street
Winston-Salem, NC 27102-3199

hereinafter referred to as the "Company". The examination was conducted at the Department of Business Regulation, Insurance Division, 1511 Pontiac Ave., Bldg. 69-2, Cranston, Rhode Island 02920.

FOREWORD

Our Market Conduct Examination Report is, in general, a report by exception. Information relating to practices, procedures, and/or files subject to review during our examination has been omitted from the report if errors and/or improprieties were not evidenced.

SCOPE OF EXAMINATION

Authority for this examination is provided by R.I. Gen. Laws §27-13-1 and §27-13.1-3. The examination covered the period from January 1, 2007 through June 30, 2008, and was conducted in accordance with standards established by the National Association of Insurance Commissioners, and procedures developed by the Rhode Island Department of Business Regulation, Insurance Division.

The examination encompassed a review of the following areas of the private passenger automobile line of business: Premium Installment Plans, Cancellations and Nonrenewals, and Total Loss Claims Paid.

The primary purpose of the examination was to evaluate the Company's compliance with Rhode Island General Laws and Insurance Regulations, and to determine whether Rhode Island insureds were being treated equitably. The test work performed during the examination satisfied this purpose, and forms the basis for the findings and recommendations presented in this report. The examination consisted of verification and evaluation, on a test basis, of information contained in the insurer's files.

PROFILE OF COMPANY

History

National General Assurance Company (the Company) was incorporated June 2, 1983, under the laws of Missouri and began underwriting on January 1, 1989. The company is a wholly owned subsidiary of Motors Insurance Corporation, which is owned by GMAC Insurance Holding, Inc. Mary Hennessy was appointed President in 2008.

National General Assurance Company is licensed in the following 44 states; Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

The company specializes in the underwriting and marketing of standard automobile insurance, including recreational vehicles, and markets its products directly to the consumer through the direct response channel and on the Internet.

Operations

The Company's Rhode Island direct written premium for the year 2007 was as follows:

| <u>Line of Business</u> | <u>Written Premium</u> |
|--|------------------------|
| Other Private Passenger Auto Liability | \$ 2,119,298 |
| Private Passenger Auto Physical Damage | <u>\$ 1,235,286</u> |
| Total | \$ 3,354,584 |

Management

At December 31, 2007, the Officers of the National General Assurance were as follows:

| | |
|-------------------|---|
| Gary Y. Kusumi | President & Chief Executive Officer |
| Sheena Evans Poe | Vice President, Secretary, Chief Claims Officer |
| Donald J. Bolar | Vice President, Treasurer, & Chief Accounting Officer |
| Daniel C. Pickens | Vice President & Chief Actuary |

At December 31, 2007, the Directors of the National General Assurance were as follows:

| | |
|-----------------------|-------------------|
| John C. Beattie | Preston S. Eckman |
| Gary Y. Kusumi | William B. Noll |
| Sheena Evans Poe | Gerald D. Filler |
| Bernard J. Buselmeier | Daniel C. Pickens |
| David S. Murphy | |

PRIVATE PASSENGER AUTOMOBILE

Premium Installment Plans

A review of the Company's premium installment plans for private passenger automobile policies written during the period under examination was conducted to determine whether the Company complied with the applicable provisions of its personal premium payment options and was in compliance with R.I. Gen. Laws §27-29-13 and the Rhode Island Department of Business Regulation Office of Legal Counsel Memorandum, dated May 11, 2005.

The company provided the examiner with a listing of 2800 payments made on private passenger automobile policies written from 1/1/07 through 6/30/08. The examiner selected and reviewed a sample of 50 payments. One exception was found when the company could not locate the premium bill; therefore the down payment and service charge could not be verified. The Company was in violation of R. I. Gen. Laws §27-29-13 and the Rhode Island Department of Business Regulation Office of Legal Counsel Memorandum, dated May 11, 2005. This exception was below the error tolerance for the area of review.

Cancellations & Nonrenewals

A review of the Company's private passenger automobile cancellation and nonrenewal practices during the period under examination was conducted to determine whether the Company complied with the applicable provisions of its private passenger automobile policies and was in compliance with R.I. Gen. Laws §31-47-4 and Rhode Island Insurance Regulation 16.

The Company provided the examiner with a listing of 14 private passenger automobile cancellations and nonrenewals processed from 1/1/07 through 6/30/08. Based on the examination work performed, one exception was noted when the company failed to provide a nonrenewal notice which contained the mandatory Financial Security and notice of possible eligibility for replacement coverage through the Rhode Island Automobile Insurance Plan. The company was in violation of R. I. Gen. Laws §31-47-4 and Rhode Island Insurance Regulation 16. This exception was below the error tolerance.

Claims Paid on Total Losses

A review of the Company's private passenger automobile claims paid on total losses for first and third party claims was conducted to determine whether actions taken by the company complied with R. I. Insurance Regulation 73, Section 7(A)(2), Unfair Property/Casualty Claims Settlement Practices and Insurance Bulletin Number 2004-3.

The Company provided the examiner with a listing of 45 first and third party private passenger automobile claims. The examiner reviewed all claims paid and noted that 33 files did not contain a detailed vehicle valuation report that documents the actual cash value of the total loss vehicle, on a case-by-case basis, with appropriate adjustments for such factors as vehicle condition, high and low mileage, accessory options and salvage value, in order to show how a fair and equitable settlement was determined. If an insurer makes a deduction for salvage of the claimant's vehicle, the insurer must furnish the name and address of a

salvage dealer who will purchase the salvage for the amount deducted.

All deductions must be measurable, discernible, itemized and specified as to dollar amount, and shall be contained in the claim file, whether using NADA Official Used Car Guide (“Guide”) or some substantially similar service. In determining whether a total loss valuation service is substantially similar to the Guide, the Department will consider certain factors as outlined in Insurance Bulletin Number 2004-3 regarding comparison vehicles.

The company was in violation of R. I. Gen. Laws §27-9.1-4(a)(20), Rhode Island Insurance Regulation 73, Section 7(A)(2) and Rhode Island Insurance Bulletin Number 2004-03.

Recommendation #1: It is recommended that the Company include the detailed NADA valuation report used in determining the actual cash value of the motor vehicle, along with the salvage dealer’s information and amount, when making a deduction for salvage, in accordance with Rhode Island Insurance Regulation 73, Section 7(A)(2) and Rhode Island Insurance Bulletin Number 2004-03.

Recommendation #2: It is recommended that when the Company uses another service substantially similar to the Guide, they use the following factors in determining the actual cash value of total loss vehicles in accordance with Insurance Regulation 73, Section (7)(A)(2) and Insurance Bulletin Number 2004-3:

- 1) Geographical area of the comparison vehicles
- 2) Recent values of comparison vehicles
- 3) Similar comparison vehicles (e.g. year, make, body style, mileage, options, etc.)
- 4) Number of vehicles used in the comparison
- 5) Whether dealer or private sales were used for comparison vehicle values

Recommendation #3: It is recommended that the Company maintain a system in its entirety, in the appraisal of a motor vehicle and retain copies of all documents utilized to evaluate the actual cash value and salvage value of a total loss vehicle in accordance with R. I. Gen. Laws §27-9.1-4(a)(20).

| Rec. # | Recommendations | Page # |
|--------|---|--------|
| 1 | It is recommended that the Company include the detailed NADA valuation report used in determining the actual cash value of the motor vehicle, along with the salvage dealer's information and amount, when making a deduction for salvage, in accordance with Rhode Island Insurance Regulation 73, Section 7(A)(2) and Rhode Island Insurance Bulletin Number 2004-03. | 9 |
| 2 | <p>It is recommended that when the Company uses another service substantially similar to the Guide, they use the following factors in determining the actual cash value of total loss vehicles in accordance with Insurance Regulation 73, Section (7)(A)(2) and Insurance Bulletin Number 2004-3:</p> <ol style="list-style-type: none"> 1) Geographical area of the comparison vehicles 2) Recent values of comparison vehicles 3) Similar comparison vehicles (e.g. year, make, body style, mileage, options, etc.) 4) Number of vehicles used in the comparison 5) Whether dealer or private sales were used for comparison vehicle values | 9 |
| 3 | It is recommended that the Company maintain a system in its entirety, in the appraisal of a motor vehicle and retain copies of all documents utilized to evaluate the actual cash value and salvage value of a total loss vehicle in accordance with R. I. Gen. Laws §27-9.1-4(a)(20). | 10 |

CONCLUSION

We have applied verification procedures to the data contained in this report using both subjective and statistical sampling techniques as deemed appropriate. While sampling techniques do not give complete assurance that all errors and irregularities will be detected, those that were detected during the course of this examination have been disclosed in this report. We were not informed of, and did not become aware of any other error or irregularity that could have a material effect on the market conduct condition of the Company as presented in this report.

Assisting the undersigned in the conduct of this examination was Ronald R. Radtke, Senior Market Conduct Examiner.

Respectfully submitted,



Dorothy E. Wendoloski, CFE
Senior Insurance Examiner
Rhode Island Insurance Division

GMAC
Insurance

February 26, 2009

Sharon K. Gordon, CPA, CFE
Chief Insurance Examiner
State of Rhode Island and Providence Plantations
Department of Business Regulation
Insurance Division
1511 Pontiac Ave., Bldg. 69-2
Cranston, RI 02920

RE: Market Conduct Examination of National General Assurance Company NAIC #
42447

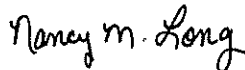
Dear Ms. Gordon:

The company has reviewed the above caption examination report and accepts the report as written.

As requested in your letter of February 2, 2009, I have attached as Exhibit A the company's response to all comments and the recommendations contained in the examination report and a signed Consent Agreement.

Should you need additional information please contact me at 336-435-2305 or email at nancy.long@gmacinsurance.com

Sincerely,



Nancy M. Long
Compliance Manager
GMAC Insurance

Exhibit A
Company Response to the Recommendations as set forth in the
Market Conduct Examination
of
National General Assurance Company
NAIC # 42447
as of
June 30, 2008

Recommendation # 1

It is recommended that the Company include the detailed NADA valuation report used in determining the actual cash value of the motor vehicle, along with the salvage dealer's information and amount, when making a deduction for salvage, in accordance with Rhode Island Insurance Regulation 73, Sections 7(A) (2) and Rhode Island Insurance Bulletin Number 2004-03.

Company response:

The Company has moved to a consistent practice of utilizing a product from Mitchell International Inc. called Mitchell TLV (Total Loss Valuation). This product provides the market analysis for the valuation of total loss vehicles. In the event that we happen to use NADA for valuing a total loss, we will include a detailed NADA valuation report in our claim file. We will also provide the salvage dealer's information, and amount, in cases where a salvage deduction is applied to the claim settlement.

Recommendation #2

It is recommended that when the Company uses another service substantially similar to the Guide, they use the following factors in determining the actual cash value of total loss vehicles in accordance with Insurance Regulation 73 Section (7) (A) (2) and Insurance Bulletin Number 2004-3:

- 1) Geographical area of the comparison vehicles
- 2) Recent values of comparison vehicles
- 3) Similar comparison vehicles (e.g. year, make, body style, mileage, options, etc.)
- 4) Number of vehicles used in the comparison
- 5) Whether dealer or private sales were used for comparison vehicles values.

Company response:

The Company has already confirmed with Mitchell International Inc., that their TLV market analysis does involve use of the following factors:

- 1) Geographical area of the comparison vehicles
- 2) Recent values of comparison vehicles
- 3) Similar comparison vehicles
- 4) Number of vehicles used in the comparison
- 5) Whether the vehicles used in the comparison are dealer or private sales

Recommendation # 3

It is recommended that the company maintain a system in its entirety, in the appraisal of a motor vehicle and retain copies of all documents utilized to evaluate the actual cash value and salvage value of a total loss vehicle in accordance with R.I. Gen. Laws 27-9.1-4 (a) (20)

Company response:

The Company's move to the use of the Mitchell TLV valuation product has resolved the issue of having appropriate supporting documents in the claim file. A detailed Mitchell TLV report is maintained in the claim file on all total loss settlements. Effective immediately we are also establishing the practice of maintaining the salvage dealer information (including amount) in the claim file (either in the notes section of the file, or as a separate document which would contain this information).