



## Texas Department of Insurance

Enforcement Division, Mail Code 110-1A  
333 Guadalupe • P. O. Box 149104, Austin, Texas 78714-9104  
512-475-1821 telephone • [www.tdi.state.tx.us](http://www.tdi.state.tx.us)

November 15, 2010

LARRY PENTIS  
NATIONAL GENERAL INSURANCE COMPANY 7009 1680 0001 5374 3905  
500 WEST FIFTH STREET  
WINSTON-SALEM, NC 27102

**CERTIFIED MAIL NO.  
RETURN RECEIPT REQUESTED  
AND FIRST CLASS MAIL**

RE: OFFICIAL ORDER 10-0980; NATIONAL GENERAL INSURANCE COMPANY

Dear Mr. Pentis:

Please find enclosed a copy of the Official Order that was signed by the Commissioner on November 12, 2010.

Please note that the fine assessed pursuant to the Official Order must be paid according to the terms of the Official Order. Please return your cashier's check or money order made payable to "The State of Texas" along with a Monetary Forfeiture Notice card to:

Texas Department of Insurance  
Attn: Enforcement Division, Division 1111, MC 999-9  
P.O. Box 149104  
Austin, Texas 78714-9104

Please do not hesitate to contact me at (512) 305-7647, should you have any questions. Thank you for your assistance and cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Micah Mireles".

Micah Mireles  
Legal Secretary  
Enforcement Division

Enclosure

Cc: Annette Ellis, via email – [annette.ellis@gmacinsurance.com](mailto:annette.ellis@gmacinsurance.com)  
Norma Matthews, via email – [norma.matthews@gmacinsurance.com](mailto:norma.matthews@gmacinsurance.com)

No. 10-0980

**OFFICIAL ORDER**  
of the  
**COMMISSIONER OF INSURANCE**  
of the  
**STATE OF TEXAS**  
**AUSTIN, TEXAS**

Date: NOV 12 2010

**Subject Considered:**

NATIONAL GENERAL INSURANCE COMPANY  
500 West Fifth Street  
Winston-Salem, NC 27102

**CONSENT ORDER**  
**DISCIPLINARY ACTION**

TDI Enforcement File No. 55366  
SOAH Docket No. 454-11-0057.D

**General remarks and official action taken:**

On this date came on for consideration by the Commissioner of Insurance, the Texas Department of Insurance's ("TDI" or the "Department") complaint against National General Insurance Company ("National General"). The Department alleges that National General violated the insurance laws of the State of Texas and that such conduct constitutes grounds for administrative action pursuant to TEX. INS. CODE ANN. §§ 82.052 and 84.021.

The parties, TDI and National General, by their respective signatures hereto, announce that they have compromised and settled all claims and agree to the entry of this Consent Order. The parties request the Commissioner of Insurance to informally dispose of this case pursuant to the provisions of TEX. INS. CODE ANN. § 82.055, TEX. GOV'T CODE ANN. § 2001.056, and 28 TEX. ADMIN. CODE § 1.47.

**WAIVER**

National General acknowledges the existence of, and by its agreement to this Order expressly and voluntarily waives, all procedural rights relating to this disciplinary action, including, without limitation, the rights to notice of hearing, a public hearing on the merits, issuance of a proposal for decision, petition the Commissioner of Insurance for rehearing, and judicial review of this Order as provided for in TEX. GOV'T CODE ANN. §§ 2001.051—2001.178. National General waives all procedural rights in consideration of the entry of this Order, and acknowledges the jurisdiction of the Commissioner of Insurance over National General.

10-0980

COMMISSIONER'S ORDER  
National General Insurance Company  
2 of 5

### JURISDICTION

The Commissioner of Insurance has jurisdiction over this matter pursuant to TEX. INS. CODE ANN. §§ 82.001–82.056, 84.021 and 1953.051, 28 TEX. ADMIN. CODE § 5.9332, and TEX. GOV'T CODE ANN. §§ 2001.051–2001.178.

### FINDINGS OF FACT

The Commissioner makes the following findings of fact:

1. National General holds an authorization issued by the Department to underwrite personal automobile insurance.
2. Section 1953.051 of the Texas Insurance Code prohibits a rating plan for automobile insurance from assigning a rate consequence to, or otherwise causing premiums to be increased because of, a charge or conviction for a violation of Subtitle C, Title 7, Transportation Code ("non-chargeable traffic violations").
3. Beginning February 19, 2006, National General utilized a rating rule called the Safe Driver Discount. The Safe Driver Discount reduced the premium amount that National General charged for a policy by ten percent for some coverages and by twenty percent for other coverages.
4. National General policyholders who had non-chargeable traffic violations within the previous three years were not eligible to receive the Safe Driver Discount.
5. Since February 19, 2006, approximately 2,600 policyholders were denied the benefits of the Safe Driver Discount because National General considered non-chargeable traffic violations.
6. Because non-chargeable traffic violations were utilized by National General to determine rates for such policyholders, the rates paid by these 2,600 policyholders were greater than the rates paid by comparable policyholders without any non-chargeable traffic violations.
7. On or about November 22, 2008, National General ceased using the Safe Driver Discount.
8. The rating plan used by National General that included the Safe Driver Discount assigned a rate consequence to non-chargeable traffic violations in violation of TEX. INS. CODE ANN. § 1953.051.

### **Agreements by National General**

9. National General agrees that it will not directly or indirectly use non-chargeable traffic violations to determine a rate to be charged for automobile insurance.

10-0980

COMMISSIONER'S ORDER  
National General Insurance Company  
3 of 5

10. National General agrees that it will determine the amount of premium that each policyholder to whom National General issued an automobile policy since February 19, 2006 would have been charged for that policy, pursuant to National General's underwriting and rating processes applicable at the time the policy was issued, if National General had treated the policyholder as having no non-chargeable traffic violations.
11. National General agrees that it will refund to each individual the difference in the amount of premium the individual actually paid and the amount the individual would have been charged had National General treated that policyholder as having no non-chargeable traffic violations.
12. National General agrees that it will provide to the Department a report that includes the following information:
  - a. the name and contact information for each individual to whom National General owes a refund pursuant to its agreements in Findings of Fact Nos. 10 and 11 above;
  - b. the date or dates upon which National General issued a policy to each of those individuals;
  - c. the amount of the refund National General owes to each of those individuals pursuant to its agreements in Findings of Fact Nos. 10 and 11 above;
  - d. the date upon which National General paid the refund owed to each of those individuals.
13. National General agrees that it will provide the foregoing report to the Department within 120 days of the effective date of this order by delivering it to the Texas Department of Insurance, Attn: Catherine Bell, Enforcement Division, MC 110-1A, P.O. Box 149104, Austin, Texas, 78714-9104, or her successor. National General agrees that it will provide the foregoing report as a digital Microsoft Excel spreadsheet.

#### CONCLUSIONS OF LAW

Based upon the agreement of the parties and the foregoing Findings of Fact, the Commissioner of Insurance makes the following Conclusions of Law:

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to TEX. INS. CODE ANN. §§ 82.001-82.056, 84.021 and 1953.051, 28 TEX. ADMIN. CODE § 5.9332, and TEX. GOV'T CODE ANN. §§ 2001.051-2001.178.
2. The Commissioner of Insurance has authority to informally dispose of this matter as set forth herein under TEX. INS. CODE ANN. § 82.055, TEX. GOV'T CODE ANN. § 2001.056, and 28 TEX. ADMIN. CODE § 1.47.

10-0980

COMMISSIONER'S ORDER  
National General Insurance Company  
4 of 5

3. National General has knowingly and voluntarily waived all procedural rights to which it may have been entitled regarding the entry of this Order, including, but not limited to, issuance and service of a notice of intention to institute disciplinary action, a notice of hearing, a public hearing, a proposal for decision, rehearing by the Commissioner of Insurance, and judicial review.
4. National General designed and utilized a rate plan for writing automobile insurance that assigned a rate consequence to charges or convictions for violations of Subtitle C, Title 7, Texas Transportation Code as contemplated by TEX. INS. CODE ANN. § 1953.051.

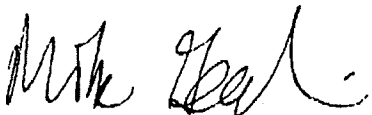
Based upon the foregoing Findings of Fact and Conclusions of Law, the Commissioner of Insurance has determined that the appropriate disposition is to order an administrative penalty be paid by National General Insurance Company, as well as full compliance with the provisions of this Order.

IT IS THEREFORE ORDERED by the Commissioner of Insurance that National General Insurance Company shall pay, and is hereby directed to pay, an administrative penalty of TWENTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$25,000.00). The administrative penalty must be paid in full on or before thirty (30) days from the entry date of this Order. The administrative penalty shall be paid by cashier's check or money order made payable to the "State of Texas" and transmitted to the Texas Department of Insurance, Attn: Enforcement Division, Division 1111, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.

IT IS FURTHER ORDERED by the Commissioner of Insurance that National General Insurance Company shall comply with the agreements set forth in Findings of Fact Nos. 9-13.

IT IS FURTHER ORDERED by the Commissioner of Insurance that henceforth, National General Insurance Company shall comply with the requirements of TEX. INS. CODE ANN. § 1953.051.

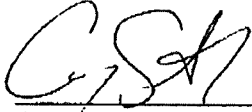
IT IS FURTHER ORDERED by the Commissioner of Insurance that if, under the provisions of TEX. INS. CODE ANN. § 82.054 and after public hearing, it is found that National General Insurance Company has failed to pay the administrative penalty in the full amount within the time specified herein, or otherwise failed to comply with this Order, the authorization to underwrite personal automobile casualty and liability risks held by National General Insurance Company shall be revoked.

  
MIKE GEESLIN  
COMMISSIONER OF INSURANCE

10-0980


COMMISSIONER'S ORDER  
National General Insurance Company  
5 of 5

FOR THE STAFF:



Casey Seeboth, Staff Attorney  
Texas Department of Insurance

AGREED TO AND ACCEPTED BY:



LARRY PENTIS  
AUTHORIZED REPRESENTATIVE OF  
NATIONAL GENERAL INSURANCE COMPANY

THE STATE OF North Carolina  
COUNTY OF FORSYTH §

BEFORE ME, Barbara C. Huffman a notary public in and for the State of NC, on this day personally appeared Larry Pentis, known to me or proved to me by (personally known) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, who being by me duly sworn, deposed as follows:

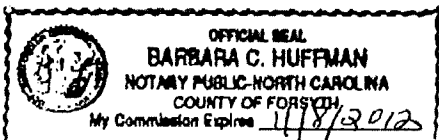
1. "My name is Larry Pentis. I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of President, and am the authorized representative of National General Insurance Company, which is licensed by the Texas Department of Insurance. I am duly authorized by said Company to execute this statement.
3. National General Insurance Company has knowingly and voluntarily entered into this Consent Order and agrees with and consents to the issuance and service of the foregoing Consent Order by the Commissioner of Insurance of the State of Texas."



LARRY PENTIS  
AUTHORIZED REPRESENTATIVE OF  
NATIONAL GENERAL INSURANCE COMPANY

Given under my hand and seal of office this 2nd day of November, 2010.

(NOTARY SEAL)



Barbara C. Huffman  
Notary Public

DOCKET NO. 454-11-0057.D

RECEIVED  
IDOL CLERK  
10 NOV 15 PM 1:51  
OF

IN THE MATTER OF  
NATIONAL GENERAL  
INSURANCE COMPANY  
RESPONDENT

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BEFORE THE STATE OFFICE  
ADMINISTRATIVE HEARINGS

**MOTION TO DISMISS**

**TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:**

**NOW COMES** the Texas Department of Insurance by and through Casey Seeboth, Staff Attorney, and files this Motion to Dismiss in the above referenced and docketed case, and in support thereof would respectfully show the following:

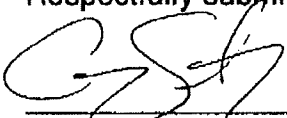
**I.**

Through entry of Official Order No. 10-0980, the allegations against National General Insurance Company have been resolved to the satisfaction of the Texas Department of Insurance. Therefore, a contested case hearing is no longer necessary.

**II.**

**WHEREFORE, PREMISES CONSIDERED,** the Texas Department of Insurance hereby respectfully requests that this Motion be granted and that the above styled and numbered cause be dismissed, without prejudice, and withdrawn from the State Office of Administrative Hearing's docket.

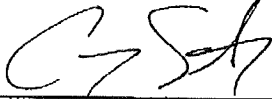
Respectfully submitted on November 15, 2010.



Casey Seeboth, Staff Attorney  
Enforcement Division, MC-110A  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104  
(512) 305-7332  
(512) 475-1772 (Fax)  
State Bar No. 24070584

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above Motion to Dismiss was served on National General Insurance Company, 500 West Fifth Street, Winston-Salem, NC 27102 by first class and certified mail on November 15, 2010.



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Casey Seeboth