

No. **2022-7246**

**Official Order
of the
Texas Commissioner of Insurance**

Date: 02/23/2022

Subject Considered:

National Summit Insurance Company
325 N. Saint Paul St., Ste. 900
Dallas, Texas 75201-3852

Consent Order
TDI Enforcement File No. 27080

General remarks and official action taken:

This is a consent order with National Summit Insurance Company (National Summit). The department conducted a market conduct examination and found National Summit violated several provisions of the Texas Insurance Code and Title 28 of the Texas Administrative Code. National Summit has agreed to pay a \$75,000 administrative penalty for these violations.

Waiver

National Summit acknowledges that the Texas Insurance Code and other applicable law provide certain rights. National Summit waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

Findings of Fact

1. National Summit is a fire and casualty company holding a certificate of authority to transact business in Texas.
2. The Texas Department of Insurance conducted a market conduct examination for the period of January 1, 2018, through December 31, 2018. The examination

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reviewed the sales, advertising and marketing, underwriting and rating, claims practices, and consumer complaints related to National Summit's homeowners' line of business.

3. The purpose of the examination was to verify compliance with the Texas Insurance Code and Title 28 of the Texas Administrative Code.
4. During the exam, the department found violations of the Texas Insurance Code and the Texas Administrative Code in the samples of policies and claims reviewed.

MGA Agreement

5. National Summit entered into a non-exclusive managing general agency (MGA) agreement with Republic General Agency, Inc. (Republic General) effective August 24, 2009. The agreement allowed Republic General to write business and recruit subagents on National Summit's behalf.
6. National Summit failed to conduct semiannual examinations on Republic General as required by the applicable statutes within the examination period.

Sales, Advertising and Marketing

7. National Summit appointed 2,160 active agents and terminated 81 active agents during the examination period. A sample of 100 policies issued during the examination period was reviewed to determine compliance with the agents' licensing and appointment requirements under the Texas Insurance Code.
8. In five percent (5 of 100) of the policies reviewed, National Summit issued policies where the agent/subagent did not hold a general lines property and casualty license as required by the applicable statute.
9. In 38 percent (38 of 100) of the policies reviewed, National Summit allowed individuals to perform the acts of an agent without being appointed as an agent or subagent by National Summit.

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Underwriting and Rating Practices

10. The department reviewed samples of issued policies to determine the accuracy of underwriting and rating as filed with the department under the applicable statutes and the Texas Personal Lines rating and ruling manual.
11. In 81 percent (17 of 21) of the policies reviewed, National Summit did not attach the Notice of Toll-Free Telephone Numbers and Information and Complaint Procedures as the first, second, or third page.
12. In 81 percent (17 of 21) of the policies reviewed, National Summit did not update the department's contact information.
13. In 81 percent (17 of 21) of the policies reviewed, National Summit did not include the Spanish portion of the complaint procedures.
14. In 81 percent (17 of 21) of the policies reviewed, National Summit did not attach the Credit Information Disclosure Form.
15. The underwriting portion of the review also revealed that in 40 percent (2 of 5) of the cancellations reviewed, National Summit failed to refund the appropriate portion of unearned premium to the policyholder not later than the 15th business day after the effective date of the cancellation or termination of the policy.

Claims Practices

16. The department reviewed claims to determine compliance with policy provisions, timeliness and accuracy of payment, supporting documentation, general claims handling, and legal compliance. Sampled claims included paid claims, claims denied or closed without payment, and pending claims.
17. A review of claims found that in one instance a person acted or presented himself as an adjuster without holding the proper license.

Consumer Complaints/Inquiries

18. The department reviewed National Summit's complaint records for legal compliance. National Summit received a total of 16 complaints during the review

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period. All of the complaints were reviewed and one (6 percent) was considered confirmed.

19. In six percent (1 of 16) of the complaints reviewed, National Summit failed to adopt and implement reasonable standards for the prompt investigation of a claim.
20. In six percent (1 of 16) of the complaints reviewed, National Summit did not attempt in good faith to effect a prompt, fair, and equitable settlement of a claim.
21. In six percent (1 of 16) of the complaints reviewed, National Summit failed to pay the claim not later than the fifth business day after the date notice was made.

Market Conduct - Subsequent Events and Other Disclosures

22. National Summit moved its home office from Waco to Dallas in 2018 and in the transition lost personnel who previously handled verification of licenses, appointments, and other administrative tasks. National Summit hired new staff after the move and has been focused on overall compliance and implemented an additional process to ensure National Summit complies with all regulatory requirements.
23. National Summit also set up a system to help manage and maintain all appointed and terminated agents and a system for ensuring unearned premiums are refunded correctly and promptly.
24. During the exam period, National Summit made a SERFF filing (Filing No. NLAS-131382823) which consisted of updated and compliant policy forms. On May 17, 2018, the department approved this filing.
25. The ownership and management of National Summit changed after the examination period, but prior to the issuance of the final exam report. The current owners and managers of National Summit have accepted the exam findings.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 84.021-84.044, 4001.205, and chs. 751, 861, and 862.

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2. The commissioner has the authority to dispose of this matter informally as set forth in TEX. GOV'T CODE § 2001.056, TEX. INS. CODE §§ 36.104 and 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. National Summit 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 notice of intention to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, rehearing by the commissioner, and judicial review.
4. National Summit violated 28 TEX. ADMIN. CODE § 19.1204(b)(19)(A) by failing to conduct semiannual examinations of its MGA.
5. National Summit violated TEX. INS. CODE § 4051.051 by issuing policies where the agent/subagent did not hold a general lines property and casualty license.
6. National Summit violated TEX. INS. CODE §§ 4001.201 and 4001.205 by allowing persons to engage in the business of insurance as an agent without being appointed as an agent or subagent.¹
7. National Summit violated 28 TEX. ADMIN. CODE § 1.601 by failing to attach the Notice of Toll-Free Telephone Numbers and Information and Complaint Procedures as the first, second, or third page of the policy documents.
8. National Summit violated 28 TEX. ADMIN. CODE § 1.601 by failing to update the department's contact information within its notice.
9. National Summit violated 28 TEX. ADMIN. CODE § 1.601 by failing to include the Spanish portion of the complaint procedures within its notice.
10. National Summit violated 28 TEX. ADMIN. CODE § 5.9940 by failing to attach the Credit Information Disclosure Form to issued policies.
11. National Summit violated TEX. INS. CODE § 558.002(d) by failing to return premiums due to the insureds not later than the 15th business day after the effective date of cancellation or termination of the policy.

¹ The violation occurred prior to the repeal of Texas Insurance Code Section 4001.205.

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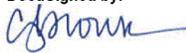
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12. National Summit violated TEX. INS. CODE § 4101.051 by allowing an individual to act or present themselves as an adjuster without holding a license.
13. National Summit violated TEX. INS. CODE § 542.003(b)(3) by failing to adopt and implement reasonable standards for the prompt investigation of claims.
14. National Summit violated TEX. INS. CODE § 542.003(b)(4) by failing to attempt in good faith to effect a prompt, fair, and equitable settlement of a claim.
15. National Summit violated TEX. INS. CODE § 542.057(a) by failing to pay a claim not later than the fifth business day after the date notice was made.

Order

It is ordered that National Summit Insurance Company pay an administrative penalty of \$75,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which the department will send after entry of this order.

DocuSigned by:

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Cassie Brown
Commissioner of Insurance

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Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Cassie Tigue, Staff Attorney
Enforcement Division

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Affidavit

STATE OF Texas §
§
COUNTY OF Dallas §

Before me, the undersigned authority, personally appeared Timothy J. McAdiffe, who being by me duly sworn, deposed as follows:

"My name is Timothy J. McAdiffe. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

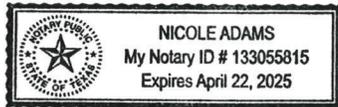
I hold the office of President and am the authorized representative of National Summit Insurance Company. I am duly authorized by said organization to execute this statement.

National Summit Insurance Company has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the State of Texas."

[Signature]
Affiant

SWORN TO AND SUBSCRIBED before me on February 14, 2022.

(NOTARY SEAL)



[Signature]
Signature of Notary Public

Nicole Adams
Printed Name of Notary Public