

No. 2019-5848

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

**Date:** JAN 25 2019

**Subjects Considered:**

State National Insurance Company, Inc.  
National Specialty Insurance Company  
1900 L. Don Dodson Drive  
Bedford, Texas 76021

Consent Order  
TDI Enforcement File Nos. 15965 and 15964

**General remarks and official action taken:**

The subject of this order is whether disciplinary action should be taken against State National Insurance Company, Inc. and National Specialty Insurance Company (collectively, "State National Companies").

**Waiver**

The State National Companies acknowledge that the Texas Insurance Code and other applicable law provide certain rights. The State National Companies waive all of these rights and any other applicable procedural rights, in consideration of the entry of this consent order.

The following findings of fact and conclusions of law are adopted:

**Findings of Fact**

1. State National Insurance Company, Inc., organization identification number 3242, is a domestic fire and casualty insurer domiciled in the state of Texas and has been licensed by the Texas Department of Insurance since August 28, 1984.

2. National Specialty Insurance Company, organization identification number 2281, is a domestic fire and casualty insurer domiciled in the state of Texas and has been licensed by TDI since June 18, 1973.
3. State National Companies are both affiliated with the Markel Corp. Group.
4. TDI conducted an evaluation in April 2018 to determine the adequacy of State National Companies' loss control program for commercial automobile liability insurance, general liability insurance, and professional liability for insureds other than hospitals. The evaluation resulted in an inadequate rating for State National Companies' loss control program.
5. TDI's 2018 evaluation found the following deficiencies:
  - a. State National Companies failed to provide adequate loss control services. In nine of the 18 account files TDI selected and reviewed, State National Companies had non-renewed based on losses or severity. The nine non-renewed account files, as well as many of the other files of renewed accounts, lacked documentation demonstrating the consideration and provision of loss control information or services unique to losses that developed during the policy period.
  - b. The loss information provided by State National Companies on the policyholder list did not match the loss information later provided on State National Companies' worksheets. State National Companies could not adequately explain these discrepancies.
  - c. State National Companies failed to provide accurate, complete information on their worksheets.
  - d. State National Companies failed to provide the qualifications for all of its Texas loss control representatives. At the time of the inspection, State National Companies could not provide documents to demonstrate the qualification of one of their loss control representatives.
  - e. State National Companies failed to provide documentation supporting their consideration and provision of loss control information or services, in particular, loss runs, documentation of service, and documentation of service consideration or service consideration, in the account files. Many of the 18 files

selected and reviewed did not contain such documentation, or when it was provided, it did not contain necessary descriptions and had to be redone.

- f. State National Companies failed to provide documentation supporting the consideration and provision of loss control information or services, specifically by following up on recommendations. Six of the 18 files selected and reviewed revealed that State National Companies consistently failed to follow up with the policyholders regarding loss control recommendations.
  - g. State National Companies were unable to demonstrate that an effective process for monitoring and maintaining their capability to appropriately identify, evaluate and respond to risks, exposures, loss experience, and other considerations during the policy period.
6. On September 27, 2018, State National Companies represented that they had increased compliance staffing, so that there are now four members on the compliance team. One member of that team is specifically tasked with the administration and oversight of its loss control program in Texas in order to improve the provision and documentation of loss control services. State National Companies also represented that another member of the compliance team will be trained in these matters to ensure continuity of service in the event of staff turnover.
  7. State National Companies agree to bring their loss control program into compliance with Texas law. To achieve compliance, State National Companies agree to do the following:
    - a. State National Companies will ensure that they provide loss control services that are reasonably commensurate with the risks, exposures, and experience of their business.
    - b. State National Companies will follow their written Texas Loss Control Procedures Manual (Procedures) that were given to TDI in November 2018.
    - c. In accordance with those Procedures, State National Companies will monitor and review all of their Texas-based accounts, including those where loss control services have been entrusted or delegated to any agent or third party for loss control service considerations, to ensure that loss control services are provided that reflect the experience of its business.

- d. In accordance with those Procedures, State National Companies will ensure that they use that information in a reasonable manner to reduce losses.

### **Conclusions of Law**

1. The commissioner of insurance has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 84.021-84.044, 801.051-801.056, 1903.051, and 1952.058, and 28 TEX. ADMIN. CODE §§ 5.301-5.311 and 5.1721-5.1731.
2. The commissioner of insurance has authority to informally dispose of this matter under TEX. INS. CODE § 82.055, TEX. GOV'T CODE § 2001.056, and 28 TEX. ADMIN. CODE § 1.47.
3. The State National Companies have knowingly and voluntarily waived all procedural rights to which they 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. Pursuant to TEX. INS. CODE §§ 1903.051 and 1952.058, an insurer must provide loss control information to policyholders as a prerequisite to writing professional liability, medical professional insurance for policyholders other than hospitals, general liability insurance, and commercial automobile liability insurance in Texas. The loss control information must be reasonably commensurate with the risks, exposures, and experience of the policyholder's business.
5. Additional loss control information to be provided by insurers writing the above listed insurance is further described in 28 TEX. ADMIN. CODE §§ 5.301-5.302 and 5.1721-5.1722.
6. Pursuant to 28 TEX. ADMIN. CODE §§ 5.303 and 5.1723, at least every two years TDI conducts an evaluation of the loss control information and services of each insurer writing professional liability and medical liability insurance for insurers other than hospitals, general liability insurance, and commercial automobile liability insurance and insurers are required to provide specific documentation.
7. The State National Companies violated TEX. INS. CODE §§ 1903.051 and 1952.058 and 28 TEX. ADMIN. CODE §§ 5.301, 5.302-5.303, 5.311, 5.1721, 5.1722-5.1723, and 5.1731.

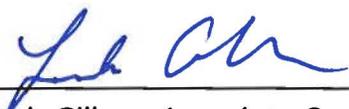
**Order**

It is ordered that State National Insurance Company, Inc. and National Specialty Insurance Company must pay, jointly and severally, an administrative penalty of \$25,000. The administrative penalty must be paid within 30 days from the date of this order. The administrative penalty must be paid by cashier's check or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: Enforcement Section, Division 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

Kent C. Sullivan  
Commissioner of Insurance

By:   
Doug Slape  
Chief Deputy Commissioner  
Commissioner's Order No. 2018-5528

Recommended and reviewed by:

  
Leah Gillum, Associate Commissioner  
Enforcement Section

  
Amanda Atkinson Cagle, Staff Attorney  
Enforcement Section

**Affidavit**

STATE OF Texas

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COUNTY OF Tarrant

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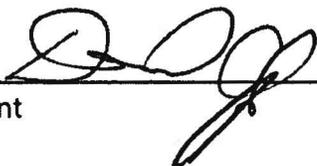
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BEFORE ME, the undersigned authority, personally appeared the affiant, who being by me duly sworn, deposed as follows:

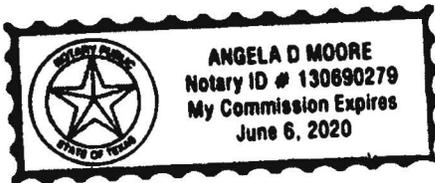
"My name is David Cleff. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

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

State National 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."

  
\_\_\_\_\_  
Affiant

SWORN TO AND SUBSCRIBED before me on December 21, 2018.



  
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Signature of Notary Public

(NOTARY STAMP)

2019- 5848

Commissioner's Order  
State National Insurance Company, Inc. et al  
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**Affidavit**

STATE OF Texas

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COUNTY OF Tarrant

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BEFORE ME, the undersigned authority, personally appeared the affiant, who being by me duly sworn, deposed as follows:

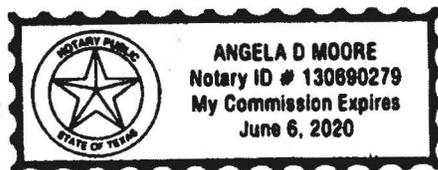
"My name is David Cleff. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

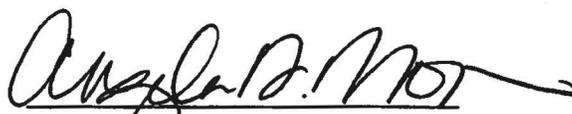
I hold the office of Secretary and am the authorized representative of National Specialty Insurance Company. I am duly authorized by the organization to execute this statement.

National Specialty 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."

  
\_\_\_\_\_  
Affiant

SWORN TO AND SUBSCRIBED before me on December 21, 2018.



  
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Signature of Notary Public

(NOTARY STAMP)