

**CONSENT ORDER**

DATED: October 26, 2007  
BY THE HONORABLE ROGER A. SEVIGNY  
INSURANCE COMMISSIONER OF THE  
STATE OF NEW HAMPSHIRE

IN THE MATTER OF:

NATIONAL GENERAL INSURANCE COMPANY DOING BUSINESS UNDER THE  
TRADE NAME "GMAC INSURANCE"

ORDER ON INVESTIGATION

Docket No. INS No. 07-53-MC

**WHEREAS**, The New Hampshire Attorney General Department of Justice Consumer Protection and Antitrust Bureau referred a consumer complaint on August 3, 2006 to the New Hampshire Insurance Department ("Department") that contained allegations of untrue statements contained in National General Insurance Company's ("Company") direct mail solicitation for personal automobile insurance, such solicitation made under the trade name "GMAC Insurance," and

**WHEREAS**, the Department conducted an investigation of the Company pursuant to authority granted under RSA 400-A:16 which investigation resulted in a Market Conduct Investigation Report issued in March 2007, and

**WHEREAS**, during the course of the investigation, the investigators found that 19,253 letters mailed to New Hampshire consumers as part of the Company's "Mover Mailers" direct solicitation program on or after July 8, 2006 contained multiple representations that the investigators allege were untrue, incomplete, misleading and deceptive pursuant to the Unfair Insurance Trade Practices Act, and

**WHEREAS**, the investigators determined that the letters stated "State law requires you to obtain auto insurance from a company licensed to do business in your state" and "NH State law requires that you take care of an important matter related to your move" and asserted that these statements were deceptive since they were not an accurate and complete statement of New Hampshire law, and

**WHEREAS**, the investigators determined that the letters were sent to homeowners who had recently moved their residence and that they claimed that the recipient would receive a lower auto premium rate ("In fact, drivers who switch to GMAC Insurance save an average of \$335.98 in the first year alone!") in their new neighborhood "Because fewer

accidents happen there". The investigators found that the Company could not adequately substantiate these claims, and

**WHEREAS**, the records indicate that the Company received complaints regarding the content of the letters from consumers in multiple states and temporarily suspended the mailings while it assessed whether it should continue to use the language. However, the Company concluded it would continue using both the original language and a modified version in several subsequent mass mailings during the period July 31 through September 1, 2006, and

**WHEREAS**, investigators allege that each of the 19,253 letters constitutes an instance of noncompliance with both the State's Unfair Insurance Trade Practices statute and regulations pertaining to insurance advertising, Ins 2604.01 (a), and

**WHEREAS**, the Market Conduct Investigation Report issued by the Department cites the above-mentioned allegations of violations of RSA 417:3 and RSA 417:4 parts I and III, and violations of Ins 2604.01 (a), and

**WHEREAS**, the substantive findings of the investigation and the allegations were conveyed to the Company via a March 21, 2007 e-mail communication directed to the Company's independent counsel, and

**WHEREAS**, the Company advised the Department that during the week of September 11, 2006 it discontinued all mailings containing the advertising copy that is the subject of the investigation, and

**WHEREAS**, in an April 6, 2007 correspondence to the Department, the Company acknowledged that, while preparing the correspondence, it discovered an additional 3,018 pieces of mail, the net effect to raise the total of objectionable letters to 22,271, and

**WHEREAS**, the Company has agreed to send a letter of clarification and apology to all New Hampshire residents who responded to the advertising in question or filed a complaint, and

**WHEREAS**, the Company, to ensure the compliance, overall integrity and quality of its advertising, has voluntarily agreed to take immediate corrective action in regard to the Company's review of advertising materials to ensure compliance with New Hampshire RSA 417:3, RSA 417:4 I (g), RSA 417:4 I (h), RSA 417:4 III (a) and Ins 2604.01 as outlined below:

1. The Company's Marketing and Legal Departments will intensify their review of all advertising.
2. The Marketing Department will maintain a database that contains the number of individuals solicited for any mail campaigns and their name and address. The Marketing Department will maintain selections and modeling criteria for each

campaign for a period of time after the campaign is completed, which is in accordance with regulatory records retention requirements.

3. New advertising copy created by the Marketing Department will be forwarded to Legal Department for review. An attorney with the Legal Department responsible for advertising will review the advertising for compliance with state and federal insurance laws and advertising laws. The Legal Department will ensure that specific individuals within relevant departments validate the accuracy of advertising copy. These departments include, but are not limited to, the Sales Call Center, Service Call Center and Claims Department.
4. Upon review, the Legal Department will respond to the Marketing Department by either approving, making required and suggested changes to the advertising and/or raising questions that may require additional fact-checking.
5. The Marketing Department will make the changes required by the Legal Department and will discuss all suggested changes.
6. Legal Department comments related to advertising will be in writing and retained in accordance with regulatory records retention requirements.

In the event the procedures outlined in (1) - (6) above are amended by the Company for business reasons at any time during the next two years, the Company agrees to notify the Department immediately in writing of these changes and provide a full description of any and all amended procedures, the specific reason or reasons for any amendment, a statement explaining how the new procedure will continue to ensure adequate monitoring and review of advertisements and a certification that the new procedure will not adversely impact the effectiveness of the corrective actions provided in this order.

**WHEREAS**, the Company further asserts it has and will conduct training for Direct Mail Division and Customer Service employees on the importance of accurate record keeping, data presentation and of clear concise communication in response to regulators and customers, and

**WHEREAS**, the Department finds the above corrective actions provide appropriate consumer safeguards and will help prevent reoccurrence of use of potentially noncompliant advertising language in future, and

**WHEREAS**, New Hampshire Insurance Commissioner Sevigny ("Commissioner") is mindful of RSA 417:20 II that obligates him to administer actions under Chapter 417 of New Hampshire Statutes so far as practicable to facilitate voluntary settlements and wishes to settle this matter in a manner consistent with the statute while affording appropriate safeguards and protection for New Hampshire consumers, and

**WHEREAS**, the Company neither admits nor denies the findings giving rise to the allegations,

**NOW THEREFORE,**

1. The Company shall prepare a letter of clarification and apology subject to the approval of the Department and at Company expense that shall be mailed by the Company to all New Hampshire consumers who responded to solicitation letters in question or filed a complaint.
2. The Company shall pay an administrative penalty of \$50,000 within 10 days of the date of this Order.
3. The Company shall comply with all the terms of this Order and the Agreement and the Department reserves the right to conduct a follow-up investigation to determine if GMAC has complied with this Consent Order.

This matter is settled effective upon the date of the Company's performance of the terms hereof.

**SO ORDERED.**

NEW HAMPSHIRE INSURANCE  
DEPARTMENT



Witness

Dated: 10-26-07



NATIONAL GENERAL INSURANCE  
COMPANY

Barbara Huffman  
Witness

Dated: 11/6/07

Sheena Poe  
Company Officer Sheena E. Poe  
Title: Vice President & Secretary