

**STATE OF NORTH DAKOTA**  
**BEFORE THE INSURANCE COMMISSIONER**

<b>In the Matter of</b>	)	
	)	
<b>American National Insurance</b>	)	<b>CONSENT ORDER</b>
<b>Company,</b>	)	
<b>FEIN 74-0484030,</b>	)	<b>CASE NO. CO-14-503</b>
	)	
<b>Respondent.</b>	)	

**TO: Judith Regini, Corporate Compliance, American National Insurance Company, One Moody Plaza, Galveston, TX 77550**

Insurance Commissioner Adam Hamm, hereinafter "Commissioner", has determined as follows:

1. The Commissioner has authority in this matter pursuant to N.D.C.C. § 26.1-01-03.
2. The Commissioner has jurisdiction over the Respondent and the subject matter of this Consent Order, and this Consent Order is made in the public interest.
3. American National Insurance Company, FEIN 74-0484030 ("Respondent"), is a foreign insurance company domiciled in Texas and duly authorized to do business in North Dakota since February 1, 1997.
4. On or about April 9, 2003, Respondent informed the North Dakota Insurance Department ("Department") that while the North Dakota Administrative Code required that Respondent provide a \$5,000 guaranteed issue amount, Respondent was choosing to be more generous and provide a \$10,000 guaranteed issue amount on its consumer credit insurance policies.

5. On or about December 12, 2012, the Department received a complaint from D.J. regarding his life and disability policy issued by Respondent. D.J. had suffered a bicep injury and was unable to work. He submitted a claim to Respondent. Respondent discovered that D.J. had failed to disclose an unrelated medical condition on his application and rescinded D.J.'s policy and refunded his premiums.

6. The Department approached Respondent regarding the \$5,000 guaranteed issue required by N.D. Admin. Code §§ 45-07-01.1-04(2)(d) and 45-07-01.1-05(5)(g) as Respondent was required to provide guaranteed issue to D.J.

7. On March 7, 2013, Respondent disagreed with the Department's interpretation of the guaranteed issue rule.

8. On or about April 4, 2013, the Respondent changed its position and issued D.J. a new policy.

9. As a result of a complaint made to the Department by D.J., the Department discovered that Respondent did not make guaranteed issue payments for the period from approximately February 2004 to approximately April 2013. During this period, Respondent did not provide the required guaranteed issue amount to 43 North Dakota insureds.

10. As a result of the Department's investigation, Respondent sent each of the 43 North Dakota insureds or their heirs a letter and the guaranteed issue amount that the insured would have received. In some cases, no heirs could be located and the amount due was escheated to the state.

11. N.D. Admin. Code § 45-07-01.1-04(2)(d) provides:

Guaranteed issue amount. An insurer must issue an amount up to five thousand dollars without regard to a debtor's or creditor's health status. An amount in excess of five

thousand dollars may be denied based upon the company's underwriting determination. An insurer may apply the exclusions set forth in subdivision a to the entire amount.

12. N.D. Admin. Code § 45-07-01.1-05(5)(g) provides:

Guaranteed issue. An insurer must issue a benefit amount up to five thousand dollars without regard to a debtor's or creditor's health status. A credit accident and health insurance benefit amount in excess of five thousand dollars may be denied based upon the company's underwriting determination. The benefit amount for credit accident and health insurance is defined as the monthly disability payment times the maximum number of payments payable.

13. N.D. Admin. Code §§ 45-07-01.1-04 and 45-07-01.1-05 implement N.D.C.C. ch. 26.1-37.

14. N.D.C.C. § 26.1-01-03.3 provides:

Unless otherwise provided by law, a person who violates this title is subject, after hearing by the commissioner, to payment of an administrative monetary penalty of up to ten thousand dollars.

15. Respondent failed to provide the required guaranteed issue to 43 North Dakota insureds. Six of these insureds purchased both credit life insurance and credit disability insurance and were denied proper guaranteed issue on both policies. As a result, 49 separate violations of N.D.C.C. Title 26.1 were committed by Respondent.

16. N.D.C.C. § 26.1-04-03(9) provides, in relevant part:

Unfair claim settlement practices. Committing any of the following acts, if done without just cause and if performed with a frequency indicating a general business practice:

- d. Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims submitted in which liability has become reasonably clear.

17. Respondent's conduct in not providing the guaranteed issue amount promised to 43 North Dakota insureds constitutes 49 separate unfair claim settlement practice violations under N.D.C.C. § 26.1-04-03.

18. Respondent failed to properly pay the guaranteed issue amount for a period of more than nine years, which indicates this conduct was a general business practice of the Respondent.

19. Pursuant to N.D.C.C. § 26.1-01-03.3, Respondent may be subjected to an administrative penalty not exceeding \$10,000 for each violation of N.D. Admin. Code §§ 45-07-01.1-04(2)(d) and 45-07-01.1-05(5)(g).

20. Respondent acknowledges that at the time of signing the Consent Order, it was aware of or had been advised of its rights to a hearing in this matter, to consult an attorney, to present argument to the Commissioner, to appeal from any adverse determination after a hearing, and Respondent expressly waives those rights.

21. Respondent and Commissioner have agreed to informal disposition of this matter, without a hearing, as provided under N.D.C.C. § 28-32-22.

22. For purposes of resolving this matter, without further administrative proceedings, Respondent and the Commissioner have agreed to enter into the following Order.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent agrees to pay a administrative penalty in the amount of \$275,000.00.

3. The penalty of \$275,000 is payable by money order, cashier's check, or credit card to the North Dakota Insurance Department within 30 days of the effective date of this Order.

4. The use of this Consent Order for competitive purposes by an insurance agent or agency holding a license in the State of North Dakota, or by any company holding a Certificate of Authority, or by anyone on their behalf, may be deemed unfair competition and be grounds for suspension or revocation of said license or authority.

DATED at Bismarck, North Dakota, this 30 day of June, 2015.

  
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Adam Hamm  
Insurance Commissioner  
State of North Dakota

#### CONSENT TO ENTRY OF ORDER

The undersigned, a person authorized to sign on behalf of **American National Insurance Company**, states that the signer has read the foregoing Consent Order, that the signer knows and fully understands its contents and effect; that American National Insurance Company, has been advised of its right to a hearing in this matter, its right to be represented by legal counsel, its right to present evidence and arguments to the Commissioner, and its right to appeal from an adverse determination after hearing; and that by the signing of this Consent to Entry of Order American National Insurance Company, waives those rights in their entirety, and consents to entry of this Order by the Insurance Commissioner. It is further expressly understood that this Order

constitutes the entire settlement agreement between the parties hereto, there being no other promises or agreements, either expressed or implied.

DATED this 12<sup>TH</sup> day of MAY, 2015.

Dwain A. Akins  
Signature

DWAIN A. AKINS  
Printed Name

SVP CHIEF COMPLIANCE OFFICER  
Title

Subscribed and sworn to before me

this 12<sup>th</sup> day of May, 2015.

Angela Ramirez  
Notary Public

State of Texas  
County of Galveston

My commission expires: 2/23/2019

