

MAR 1 2001

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY CO

In the Matter of:

NATIONAL FOUNDATION LIFE INSURANCE COMPANY

NAIC #98205;

Respondent.

) Docket No. 01A-059-INS

) **CONSENT ORDER**

Examiners for the Arizona Department of Insurance (the "Department") conducted a Market Conduct Examination of National Foundation Life Insurance Company ("NFL"). The Report of the Examination of the Market Conduct Affairs of NFL dated August 26, 1999 alleges that NFL has violated A.R.S. §§20-461, 20-462, 20-2110, and A.A.C. R20-6-801 and R20-6-1107.

NFL wishes to resolve this matter without formal proceedings, admits that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. NFL is authorized to transact life and disability insurance pursuant to a Certificate of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct a market conduct examination of NFL. The on-site examination covered the time period from June 1, 1996 through May 31, 1999, and was concluded on August 26, 1999. Based on the findings the Examiners prepared the "Report of Examination of the Market Conduct Affairs of National Foundation Life Insurance Company" dated August 26, 1999.

1 3. The Examiners reviewed 9 of 9 consumer complaints received directly by
2 the Company during the examination time frame, and found that on 3 claims, NFL
3 failed to reply to claim related pertinent communications from a claimant within 10
4 working days of receipt, which reasonably suggested that a response was expected.

5 4. The Examiners reviewed the form and document filings required to be made
6 by NFL on Medicare Select business being written in Arizona during the time frame of
7 the examination and found as follows:

8 a. NFL failed to make 12 quarterly filings to the Department of updated lists of
9 Medicare Select providers.

10 b. NFL failed to report to the Director specific information regarding its
11 grievance procedures, for each of the years 1997, 1998, and 1999.

12 5. The Examiners reviewed 125 of 293 individual major medical, Medicare
13 supplement and other products issued or declined by NFL during the examination time
14 frame, and found that NFL failed to notify 36 applicants on whom an adverse
15 underwriting decision had been made, of the specific reason for the adverse
16 underwriting decision, failed to provide the applicant with a Summary of Rights and did
17 not advise that upon written request the applicant could receive the specific reason for
18 the adverse underwriting decision in writing.

19 6. The Examiners reviewed 488 of 56,672 major medical, Champus
20 Supplement, Medicare Supplement and other product claims which were paid, denied
21 or closed during the examination time frame and found as follows:

22 a. NFL failed to acknowledge the receipt of the notification of 70 claims within
23 10 working days of receipt.

24 b. NFL failed to advise 83 first party claimants of the acceptance or denial of
25 the claim within 15 working days after receipt by the insurer of properly executed

1 proofs of loss.

2 c. NFL failed to pay 18 claims within 30 calendar days after receipt of an
3 acceptable proof of loss which contained all necessary information for claim
4 adjudication. Interest payments were not made at the time the claims were paid.

5 d. On two claims, NFL's claim files did not contain all the notes and work
6 papers in such detail that the pertinent events and dates of such events could be
7 reconstructed.

8 **CONCLUSIONS OF LAW**

9 1. NFL violated A.R.S. §20-461(A)(2) and A.A.C. R20-6-801(E)(3) by failing to
10 reply to pertinent claim related communication from claimants within 10 working days
11 of receipt.

12 2. NFL violated A.A.C. R20-6-1107(F) by failing to make quarterly filings to the
13 Director of an updated list of providers related to NFL's Medicare Select business in
14 Arizona, for any quarterly period contained in the examination time frame.

15 3. NFL violated A.A.C. R20-6-1107(K)(6) by failing to make annual reports to
16 the Director prior to March 31st of each year, pertaining to the Company's Medicare
17 Select grievance procedures.

18 4. NFL violated A.R.S. §20-2110(A) because the Company did not provide
19 individual applicants whose applications had been declined, or issued with impairment
20 riders, the specific reason for the adverse underwriting decision, did not provide these
21 applicants with a Summary of Rights and did not advise the applicant that upon written
22 request the person could receive the specific reason for the declination in writing.

23 5. NFL violated A.R.S. §20-461(A)(2) and A.A.C. R20-6-801(E)(1) because
24 the Company failed to acknowledge the receipt of notification of claims within 10
25 working days of receipt of such notice.

1 impairment rider in writing.

2 e. Fail to provide applicants on whom an adverse underwriting decision has
3 been made with a Summary of Rights.

4 f. Fail to pay interest on claims not paid within 30 days after the receipt of
5 acceptable proof of loss.

6 g. Fail to acknowledge to claimants the receipt of notice of claim within 10
7 working days of receipt.

8 h. Fail to accept or deny claims within 15 working days after receipt of properly
9 executed proof of loss.

10 i. Fail to maintain claim files which contain all notes and workpapers in such
11 detail, that the pertinent events and dates of such events can be reconstructed.

12 2. Within 90 days of the filed date of this Order, National Foundation Life
13 Insurance Company shall submit to the Arizona Department of Insurance, for approval,
14 evidence that corrections have been implemented and communicated to the
15 appropriate personnel, regarding all of the items listed above in Paragraph 1 of the
16 Order section of this Consent Order. Evidence of corrective action and communication
17 thereof includes, but is not limited to, memos, bulletins, E-mails, correspondence,
18 procedures manuals, print screens, and training materials.

19 3. Within 90 days of the filed date of this Order, National Foundation Life
20 Insurance Company shall submit evidence to the Department that NFL has paid the
21 interest amount on all claims listed in Exhibit A of this Order.

22 4. The Department shall be permitted through authorized representatives to
23 verify that NFL has complied with all of the provisions of this Order.

24 5. National Foundation Life Insurance Company shall pay a civil penalty of
25 \$12,000 to the Director for Deposit into the State General Fund in accordance with

1 A.R.S. §20-220(B). The civil penalty shall be provided to the Market Conduct
2 Examination Section of the Department prior to the filing of this Order.

3 6. The Report of Examination of the Market Conduct Affairs of National
4 Foundation Life Insurance Company as of August 26, 1999 including the letter
5 submitted in response to the Report of Examination shall be filed with the Department
6 after the Director has filed this Order.

7 DATED at Phoenix, Arizona this 28th day of February, 2001.

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9 _____
10 Charles R. Cohen
11 Director of Insurance

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CONSENT TO ORDER

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2 1. National Foundation Life Insurance Company has reviewed the foregoing
3 Order.

4 2. National Foundation Life Insurance Company admits the jurisdiction of
5 the Department of Insurance, State of Arizona, admits the foregoing Findings of Fact,
6 and consents to the entry of the Conclusions of Law and Order.

7 3. National Foundation Life Insurance Company is aware of the right to a
8 hearing, at which it may be represented by counsel, present evidence, and cross
9 examine witnesses. National Foundation Life Insurance Company irrevocably waives
10 the right to such notice and hearing and to any court appeals related to this order.

11 4. National Foundation Life Insurance Company states that no promise of
12 any kind or nature whatsoever was made to it to induce it to enter into this Consent
13 Order and that it has entered into this Consent Order voluntarily.

14 5. National Foundation Life Insurance Company acknowledges that the
15 acceptance of this Order by the Director of the Arizona Department of Insurance is
16 solely for the purpose of settling this matter and does not preclude any other agency or
17 officer of this state or its subdivisions or any other person from instituting proceedings,
18 whether civil, criminal, or administrative, as may be appropriate now or in the future.

19 6. Konrad H. Kober who holds the office of Senior V.P. of National
20 Foundation Life Insurance Company is authorized to enter into this Order for it and on
21 its behalf.

22 **NATIONAL FOUNDATION LIFE INSURANCE COMPANY**

23 February 22, 2001

23 By: 

24 Date

EXHIBIT A

POLICY/CLAIM NUMBERS FOR WHICH NATIONAL FOUNDATION LIFE
INSURANCE COMPANY MUST PROVIDE PROOF THAT INTEREST HAS BEEN

PAID

02A3416480-01001
02A3348350-01070
02A3348350-01106
02A3348350-02050
02A3232110-02006
02A3348350-01116
02A3348350-02050
02A3502170-02009
02A3348350-01040
02A3348350-02079
02A0279230-01001
0234086300-0-2001
0235650060-01-002
0235650060-0-1001
0234068550-01-004
0233925160-01-001
0206682270-02-004
0234089050-01-010
021332400-01-001

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Copy of the foregoing mailed/delivered
This 1st day of March, 2001, to:

- Sarah Begley
Deputy Director
- Mary Butterfield
Assistant Director
Consumer Affairs Division
- Paul Hogan
Chief Market Conduct Examiner
Market Conduct Examinations Section
- Deloris E. Williamson
Assistant Director
Rates and Regulations Division
- Alexandra Shafer
Assistant Director
Life & Health Division
- Steve Ferguson
Assistant Director
Financial Affairs Division
- Terry L. Cooper
Fraud Unit Chief

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