

JAN 22 2009

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY ms

In the Matter of:

**NATIONAL HOME PROTECTION,
INC.,**

Respondent.

No. 09A-003-INS

**ORDER TO CEASE
AND DESIST**

The Arizona Department of Insurance ("Department") has received evidence that Respondent has unlawfully offered or issued service contracts in the State of Arizona. Accordingly, the Director of Insurance of the State of Arizona (the "Director") makes the following Findings of Fact and Conclusions of Law and enters the following Order pursuant to A.R.S. § 20-1095.09(B).

FINDINGS OF FACT

1. National Home Protection, Inc. ("NHP") is domiciled and incorporated in the State of New York and issues service contracts to Arizona residents. NHP's address of record is: 42 West 38th Street, New York, N.Y. 10018.
2. NHP does not hold a permit to offer or issue service contracts in the State of Arizona.
3. NHP is not exempt from the permit requirement.
4. On or about December 22, 2006, NHP issued a Home Warranty Contract to Andrew Kaczowka ("Kaczowka") covering his home in Scottsdale, Arizona. On or about August 26, 2008, Kaczowska filed a Complaint with the Department stating that NHP denied his claim for breakdown of his pool motor.
5. On or about January 1, 2007, NHP issued a Home Warranty Contract to Wayne J. Curry ("Curry") covering his home in Tucson, Arizona. On or about June 7, 2007, Curry filed a Complaint with the Department stating that NHP failed to pay his claim for breakdown of his refrigerator.

1 6. On or about April 11, 2007, NHP issued a Home Warranty Contract to
2 Rhonda J. Morano ("Morano") covering her home in Glendale, Arizona. On or about
3 December 4, 2007, Morano filed a Complaint with the Department stating that NHP failed to
4 pay her claim for breakdown of her air conditioning unit.

5 7. On or about August 1, 2007, NHP issued a Home Warranty Contract to
6 Beatriz Del Carmen ("Del Carmen") covering her home in Mesa, Arizona. On or about
7 February 13, 2008, Del Carmen filed a Complaint with the Department stating that NHP
8 failed to pay her claim for breakdown of her pool motor.

9 8. On or about September 14, 2007, NHP issued a Home Warranty Contract to
10 Alonzo and Linda Russell (the "Russells") covering their home in Mesa, Arizona. On or
11 about February 6, 2008, the Russells filed a Complaint with the Department stating that
12 NHP failed to pay their claim for breakdown of their furnace.

13 9. On or about September 27, 2007, NHP issued a Home Warranty Contract to
14 Clotilde Bermudez ("Bermudez") covering her home in Surprise, Arizona. On or about
15 January 25, 2008, Bermudez filed a Complaint with the Department stating that NHP failed
16 to pay her claim for breakdown of her garbage disposal unit.

17 10. On or about October 2, 2007, NHP issued a Home Warranty Contract to
18 Debra Warner ("Warner") covering her home in Tucson, Arizona. On or about June 11,
19 2008, Warner filed a Complaint with the Department stating that NHP failed to provide her
20 with a \$250 Home Depot rebate which was promised upon her purchase of the Home
21 Warranty Contract from NHP.

22 11. On or about March 30, 2008, NHP issued a Home Warranty Contract to Amy
23 D. Smith ("Smith") covering her home in Lake Havasu, Arizona. On or about June 19,
24 2008, Smith filed a Complaint with the Department stating that NHP failed to pay her claim
25 for breakdown of her pool motor.

26 ...

1 12. On December 17, 2008, the Department issued a Subpoena Duces Tecum
2 (the "Department's Subpoena") to NHP requesting NHP to produce, on January 6, 2008,
3 proof that it is licensed to do business in Arizona and claim files for Morano, Kaczowka,
4 Bermudez, Warner, Smith, Russell, Del Carmen and Curry.

5 13. NHP has not responded to the Department's Subpoena.

6 14. On January 9, 2009, the Attorney General of Texas filed an Application for
7 Injunctive Relief seeking to enjoin NHP from its unlicensed sale of residential service
8 contracts to consumers in that state.

9 **CONCLUSIONS OF LAW**

10 1. The Director has jurisdiction over this matter.

11 2. Respondents' conduct, as alleged above, constitutes offering and issuing
12 service contracts without a permit, within the meaning of A.R.S. § 20-1095.01(A).

13 3. Respondents are not exempt from the permit requirement, within the meaning
14 of A.R.S. § 20-1095.02(A).

15 4. Service company contracts issued by Respondents are enforceable and valid
16 contracts, within the meaning of A.R.S. §20-1095.05.

17 **ORDER**

18 IT IS THEREFORE ORDERED:

19 1. Respondents shall immediately cease and desist from offering or soliciting
20 warranty service contract applications, taking or proposing to make any warranty service
21 contract, taking or receiving any application for warranty service contracts, taking or
22 collecting any premium, fees, commission, or any other consideration for any warranty
23 service contract, issuing or delivering warranty service contracts to residents of this state,
or otherwise offering or issuing service contracts to Arizona residents.

24 ...
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1 2. Respondents shall pay all valid claims arising out of acts covered by any and
2 all service contract issued by them to Arizona residents for so long as such claims may
3 legally be brought against the contract holders.

4 3. This Order shall become effective immediately and shall remain in full force
5 and effect until otherwise stayed, modified, vacated or set aside.

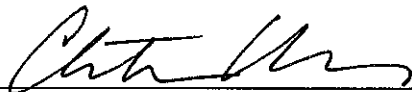
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7 NOTICE OF OPPORTUNITY FOR HEARING

8 Pursuant to Title 20 of the Arizona Revised Statutes, Respondents are hereby
9 notified that they may request a hearing pursuant to A.R.S. § 20-161 to contest the order to
10 cease and desist. Such a request must be in writing and received at the following address
11 within thirty (30) days from the date hereof:

12 Arizona Department of Insurance
13 2910 North 44th Street, Suite 210
14 Phoenix, Arizona 85012
15 ATTN: Director's Office

16 Upon receipt of a timely written request for hearing, the Director will issue an order
17 setting the time and place of the hearing.

18 DATED AND EFFECTIVE this 21st day of January, 2009.

19
20 
21 CHRISTINA URIAS, Director
 Arizona Department of Insurance

22 COPY of the foregoing mailed this
23 22nd day of January 2009 to:

24 Nancy Bonnell
25 Assistant Attorney General
26 1275 West Washington
 Phoenix, Arizona 85007
 Attorney for the Department

1 National Home Protection, Inc.
2 Attention: Leo Serrur or David Seruya
3 42 W. 38th Street, Suite 800
4 New York, New York 10018

5 Gerrie Marks, Deputy Director
6 Mary E. Kosinski, Exec. Assistant for Reg. Affairs
7 Catherine M. O'Neil, Consumer Legal Affairs Officer
8 Jack Sneathen, Property and Casualty Division
9 Terry Cooper, Assistant Director
10 Emily Penunuri, Investigations
11 Department of Insurance
12 2910 North 44th Street, Suite 210
13 Phoenix, Arizona 85018

14 
15 Curvey Walters Burton *for*

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