

No. **2023-7898**

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

**Date: 4/20/2023**

**Subject Considered:**

National Summit Insurance Company  
325 N. Saint Paul St.  
Ste. 900  
Dallas, Texas 75201-3852

Consent Order  
TDI Enforcement File No. 30098

**General remarks and official action taken:**

This is a consent order with National Summit Insurance Company (National Summit). National Summit assessed a premium consequence for policyholders that incurred losses resulting from wind, hail, and lightning. National Summit has agreed to pay restitution to the affected policyholders and an administrative penalty of \$25,000.

**Waiver**

National Summit acknowledges that the Texas Insurance Code and other applicable law provide certain rights. National Summit waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

**Findings of Fact**

Licensure

1. National Summit is a domestic fire and casualty insurance company that holds a certificate of authority to transact business in Texas.

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### Use of Claims Resulting from a Loss Caused by Natural Causes

2. Effective April 23, 2006, Section 21.1004 in Title 28 of the Texas Administrative Code prohibits a rating plan regarding residential insurance from assigning any premium consequence through a premium surcharge or claims free program based on claims occurring, in whole or in part, due to a claim resulting from a loss caused by natural causes. A natural cause includes a weather-related cause.
3. In rating residential insurance policies, National Summit assigns varying point values to each claim depending on the cause, and then uses a cumulative number of points to assign a rating factor, with more points leading to higher factors.
4. During a review of National Summit's Countrywide Product Manual for homeowner, dwelling, and manufactured home policies, the department found that National Summit's merit rating, rule 530, assigned a premium consequence for losses from wind, hail, and lightning claims.
5. National Summit represents that it began assigning this premium consequence on December 15, 2020.
6. Effective June 24, 2022, for both new business and renewals, National Summit submitted filings in SERFF containing its updated manual and merit rule, eliminating the assignment of a premium consequence for losses from wind, hail, and lightning claims. The filings were SERFF identification numbers:
  - a. NLAS-133414640 for its mobileowners program;
  - b. NLAS-133412637 for its homeowners program; and
  - c. NLAS-133413628 for its multi-peril program.
7. After National Summit submitted those filings, the department contacted National Summit about its assignment of a premium consequence for losses from wind, hail, and lightning claims in its homeowners and multi-peril programs.
8. National Summit represents that from December 15, 2020, through May 31, 2022, the number of impacted policyholders and the estimated premium overcharges due to the assigned premium consequence in each of the three programs are as follows:

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- a. 70 mobileowners policyholders were affected with estimated premium overcharges of \$2,457.12;
- b. 144 homeowners policyholders were affected with estimated premium overcharges of \$7,140.74; and
- c. 90 multi-peril policyholders were affected with estimated overcharges of \$2,531.89.

## Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, and 801.051-801.053.
2. The commissioner has the authority to informally dispose of this matter as set forth in TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. National Summit has knowingly and voluntarily waived all procedural rights to which it 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. National Summit violated 28 TEX. ADMIN. CODE § 21.1004(c)(1) by assigning a premium consequence through a premium surcharge or claims program based on claims resulting from a loss caused by wind, hail, or lightning.
5. Pursuant to TEX. INS. CODE § 82.053, the commissioner is authorized to direct National Summit to make complete restitution to each policyholder harmed by the violations.

## Order

The commissioner orders that National Summit Insurance Company comply with the following:

- a. National Summit must identify all mobileowners, homeowners, and multi-peril policies delivered, issued for delivery, or renewed in Texas with the effective dates from December 15, 2020, through June 24, 2022 (the Review Period).

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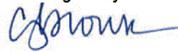
- b. For each policy in the Review Period, National Summit must calculate the corrected premium without using claims resulting from a loss caused by wind, hail, or lightning (the Corrected Premium).
- c. For each policy in the Review Period, National Summit must calculate and determine whether the dollar amount of the premium charged for each policy is less than or more than the Corrected Premium. If the premium charged is more than the Corrected Premium, the difference constitutes the "Overcharge."
- d. National Summit must pay restitution in the form of a company check or account credit to each policyholder identified in the Review Period as having an Overcharge (the Qualifying Policyholders). The restitution check and/or account credit must include both the dollar amount of the overcharge plus simple interest due on the overcharge. The rate of interest shall be five percent per annum.
- e. Not later than 30 days after the date of this order, National Summit must mail restitution checks and/or issue the account credits to the Qualifying Policyholders.
- f. Any restitution checks that are returned to National Summit with an address correction must be promptly resent to the correct address. Funds from any restitution checks that are returned thereafter for incorrect addresses and from checks that are not negotiated must be reported and delivered to the Texas Comptroller of Public Accounts pursuant to the procedures and deadlines set forth in TEX. PROP. CODE §§ 72.001 *et. seq.*, 73.001 *et. seq.*, and 74.001 *et. seq.*
- g. Not later than 90 days after the date of this order, National Summit must report the restitution paid to the Qualifying Policyholders by submitting a sortable, electronic spreadsheet to the department. The spreadsheet must contain the following information:
  - i. policy number;
  - ii. policyholder name;
  - iii. policyholder address;
  - iv. effective date of the policy;
  - v. expiration date of the policy;
  - vi. dollar amount of Overcharge;
  - vii. dollar amount of simple interest;
  - viii. amount of Overcharge plus interest;

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- ix. date(s) of mailing of restitution check or issuance of account credit for the total sum of all Overcharges;
  - x. the total sum of all simple interest; and
  - xi. the total sum of all restitution paid (total Overcharges plus the total of all simple interest).
- h. National Summit must send all submissions required under the terms of this order by email to: EnforcementReports@tdi.texas.gov.

The commissioner further orders that National Summit Insurance Company pay an administrative penalty of \$25,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which the department will send after entry of this order.

DocuSigned by:  
  
FC5D7EDDFB4F8... \_\_\_\_\_  
Cassie Brown  
Commissioner of Insurance

Recommended and reviewed by:

  
\_\_\_\_\_  
Leah Gillum, Deputy Commissioner  
Fraud and Enforcement Division

  
\_\_\_\_\_  
Sarah White, Staff Attorney  
Enforcement

**Affidavit**

STATE OF TEXAS §  
§  
COUNTY OF DALLAS §

Before me, the undersigned authority, personally appeared Timothy J. McAuliffe Jr.  
who being by me duly sworn, deposed as follows:

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

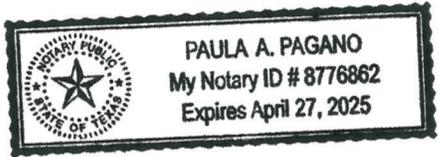
I hold the office of President and am the authorized representative of  
National Summit Insurance Company. I am duly authorized by said organization to  
execute this statement.

National Summit 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."

Timothy J. McAuliffe Jr.  
Affiant

SWORN TO AND SUBSCRIBED before me on March 2<sup>ND</sup>, 2023

(NOTARY SEAL)



Paula A. Pagano  
Signature of Notary Public

Paula A. Pagano  
Printed Name of Notary Public