

**ORDER NO. 2010-032**

<b>IN THE MATTER OF:</b>	<b>§</b>	<b>BEFORE THE BANKING</b>
	<b>§</b>	
<b>NORTH AMERICAN PLAN, INC.</b>	<b>§</b>	<b>COMMISSIONER OF TEXAS</b>
	<b>§</b>	
<b>SAN ANTONIO, TEXAS</b>	<b>§</b>	<b>AUSTIN, TRAVIS COUNTY, TEXAS</b>

**CONSENT ORDER**

On this day, the matter of North American Plan, Inc. (NAP), a Texas corporation registered to do business in Texas (Respondent), was submitted to the Banking Commissioner (Commissioner) of the State of Texas, for consideration and action.

Respondent and the Department of Banking (Department) have entered into an agreement and jointly request the Commissioner to dispose of this matter. Respondent and the Department agree that the Commissioner may make the following Findings of Fact and Conclusions of Law and enter this Consent Order (Order) and agree to the terms of the Order. Respondent agrees to this Order solely for the purpose of this proceeding, without admitting or denying any violations of law or regulations.

**I. Findings of Fact**

1. Respondent, NAP, is a company authorized to sell insurance funded prepaid funeral benefits contracts and operating under Permit No. 800 issued by the Department of Banking.
2. Respondent sells prepaid funeral benefits contracts funded by life insurance policies issued by North American Life Insurance Company (NAL), a stipulated premium insurance company domiciled in Texas and authorized to transact business in Texas by the Texas Department of Insurance (TDI).
3. TDI has directed NAL to discontinue from writing any new business. NAL may not issue any new insurance policies of any kind in any state.

4. Under Texas Finance Code §§154.201 and 154.2021, a permit holder may not solicit an individual's designation of or sell prepaid funeral benefits to be paid from an insurance policy unless the policy is approved by TDI and issued by a company authorized by TDI to engage in the business of insurance in this state.
5. As a result of the action taken by TDI, NAL is no longer able to issue insurance policies to fund Respondent's sale of prepaid funeral benefits. Accordingly, Respondent does not have the ability to fund its future prepaid funeral contracts with an insurance policy that is approved by TDI and issued by a company authorized by TDI to engage in the business of insurance in this state.
6. In the course of the on-site examination commenced on February 1, 2010 (Examination), the Department found that Respondent failed to comply with the statutes and rules in the areas of reporting and administration.
7. Respondent acknowledges that the terms of this Order do not release Respondent from the obligation to address the findings of the Examination not mentioned here.

## **II. Conclusions of Law**

8. The Commissioner has jurisdiction over this matter under Texas Finance Code, Chapter 154.
9. Respondent has knowingly and voluntarily waived the procedural requirements necessary to the entry of this Order, including the notice of hearing, a public hearing, a proposal for decision, further review of this Order by the Commissioner, and judicial review as provided for in Texas Finance Code, Chapter 154, and Texas Government Code §2001.171 et seq.
10. Based on the Findings of Fact in Paragraph 5, Respondent is unable to comply with Texas Finance Code §§154.201 and 154.2021.

11. Based on the Findings of Fact in Paragraph 6, Respondent has violated the following provisions of Title 7 of the Texas Administrative Code: §25.10(d)(3), regarding accurate reporting of in-force policy benefits; §25.10(c)(5), pertaining to creation of required lapse and other non-forfeiture policy letters to delinquent policy owners; §25.10(c)(3), relating to required death maturity file documentation; and Texas Finance Code §154.053(a), regarding availability of required examination records.
12. Texas Finance Code §154.408 authorizes the Commissioner to issue this Order if the Commissioner finds by examination or other credible evidence that a person has violated a law of this state relating to the sale of prepaid funeral benefits, including a violation of Chapter 154 of the Texas Finance Code, or Title 7 of the Texas Administrative Code, Chapter 25. Therefore, as established in Paragraph 10, because Respondent is unable to continue selling prepaid funeral benefits contracts compliant with Chapter 154 of the Texas Finance Code, and based on the violations described in Paragraph 11, sufficient cause exists for issuance of this Order to Respondent under Texas Finance Code §154.408.

### **III. Order**

Based upon the foregoing Findings of Fact and Conclusions of Law, the Commissioner orders that this matter is hereby resolved in accordance with Texas Finance Code §154.408, pursuant to the following terms:

Respondent is ordered to cease selling prepaid funeral benefits contracts until such time as the Commissioner releases Respondent from this Order. Respondent is further ordered to correct the violations listed above to the extent they remain outstanding. Upon request by Respondent, and once the Commissioner finds Respondent is able to comply with Texas Finance Code §§154.201 and 154.2021, the Commissioner may release Respondent from this Order.

The effective date of this Order is the date the Order is signed by the Commissioner.

Signed on this 16th day of June, 2010.

/s/ Charles G. Cooper  
Charles G. Cooper  
Texas Banking Commissioner

AGREED AND APPROVED AS TO FORM AND SUBSTANCE:

/s/ Robert D. Tips  
Robert D. Tips  
Chairman  
North American Plan, Inc.

/s/ Daniel Wood  
Daniel Wood  
Assistant General Counsel  
Texas Department of Banking