

1 CALIFORNIA DEPARTMENT OF INSURANCE
LEGAL DIVISION
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5 Attorneys for
CALIFORNIA DEPARTMENT OF INSURANCE

7 BEFORE THE INSURANCE COMMISSIONER
8 OF THE STATE OF CALIFORNIA

10 In the Matter of
11
12 THE NATIONAL RIFLE ASSOCIATION
13 OF AMERICA,
14
15
16 Respondent.

File No. OC201700492-AP

**ORDER TO CEASE AND DESIST and
NOTICE OF RIGHT TO HEARING**

(Insurance Code § 12921.8)

JURISDICTION AND PARTIES

19 1. California Insurance Code § 12921.8(a) authorizes the Insurance
20 Commissioner to issue a Cease and Desist Order to a person who has acted in a
21 capacity for which a license, registration, or Certificate of Authority from the Insurance
22 Commissioner was required but not possessed.¹

24 2. Respondent, The National Rifle Association of America (“NRA”), is a
25 nonprofit organization located in Fairfax, Virginia. It was founded in 1871 to “promote
26 and encourage rifle shooting on a scientific basis.” Over time, it has expanded its focus
27 to include gun education and political lobbying related to gun ownership and use.

28 ¹ See Exhibit 1.

1 **FINDINGS & AUTHORITY**

2 3. In approximately April 2017, the NRA introduced "Carry Guard,"
3 which it described as a "membership carry program" that offers "comprehensive
4 coverage and training" for those who carry a gun. The "coverage" the NRA is referring to
5 is the "Carry Guard Personal Firearms Liability Including Self Defense Insurance Policy."
6 ("Policy")

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8 4. The Policy covers legal damages from bodily injury or property damage
9 arising out of use of a firearm, air gun, bow and arrow, or trapping equipment while
10 engaged in the following activities:

- 11 • Use of a legally possessed firearm by the policyholder while engaged in
12 an "act of self-defense";
- 13 • Use of a legally possessed firearm by a resident family member of the
14 policyholder while engaged in an "act of self-defense" at the resident
15 premises;
- 16 • Hunting, trapping, or recreational shooting;
- 17 • Shooting at competitions or for recreation at hunt clubs, gun clubs, or
18 supervised commercial or private ranges;
- 19 • An accidental discharge not prohibited or restricted by any local, state,
20 federal, or provincial law.

21 5. The Policy defines an "act of self-defense" as "defending one's person, or
22 other persons who may be threatened, or one's property when you use or threaten to
23 use a 'legally possessed firearm' as may be authorized by any applicable local, state,
24 federal, or provincial laws...."

25
26 6. Policy benefits include defense of a civil suit and reimbursement of costs of
27 a criminal proceeding that does not result in a conviction or guilty plea. Such
28 reimbursement includes costs for an attorney consultation and retainer, bail,

1 psychological counseling support, biohazard cleanup, and confiscated firearm
2 replacement.

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4 7. The Policy provides four levels of coverage, ranging from \$250,000 to \$1.5
5 million in civil defense benefits, and \$50,000 to \$250,000 in criminal defense benefits.
6 Annual premium varies from approximately \$155 to \$550 depending on the level of
7 coverage.

8
9 8. To purchase the Policy, an individual must join Carry Guard and pay a
10 membership fee. Carry Guard members are not required to be members of the NRA
11 itself to purchase the Policy. New Carry Guard enrollees who are not already NRA
12 members receive a one-year NRA membership. New Carry Guard enrollees who are
13 existing NRA members may gift an NRA membership to someone else.

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15 9. As of July 26, 2018, 2,397 California residents were active policyholders.

16
17 10. On June 1, 2017, the NRA sent an email to subscribers of its mailing list
18 featuring national spokesperson Dana Loesch asking the recipient to “[s]ign up for NRA
19 Carry Guard today!” The email stated that this product is “affordable for everyone! You
20 can have this comprehensive protection, which also includes automatic coverage for
21 your spouse, for just pennies a day!” The email also provides information on the specific
22 benefits and coverages available under the Policy, including payments for “bail, bonds,
23 legal retainer fees, lawful replacement of your legally possessed firearm, compensation
24 while in court, psychological support and property restoration costs.” The email also
25 stated that “[e]ach NRA Carry Guard member has his or her own insurance limit ranging
26 from \$250,000 to \$1,000,000 depending on the level of coverage you choose.”²

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² The increase in the available civil defense benefits to \$1.5 million occurred after the date of this email.

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NOTICE OF FINE

16. The Insurance Commissioner may, pursuant to Insurance Code § 12921.8(a)(3)(B), impose a fine of up to \$5,000 for each day this Order is violated.

NOTICE OF RIGHT TO HEARING

17. Insurance Code § 12921.8(c), a copy of which is attached to this Order as Exhibit 1, provides in part, as follows:

“A person to whom a cease and desist order...has been issued, may, within seven days after service of the order...request a hearing by filing a request for the hearing with the commissioner.”

If you desire a hearing in this matter, your written request for a hearing must be received within seven days after you are personally served with this Order. The seven-day period begins on the day after you are served with this Order, and if the seventh day falls on a weekend or holiday, the deadline is extended to the next business day. Your written request for a hearing must be directed to Eugene Kalinsky, attorney for the California Department of Insurance, at the address at the top of the first page of this order.

IN WITNESS THEREOF, I have set my hand and affixed my official seal on September 11, 2018.



DAVE JONES
Insurance Commissioner

By: *Denise Yuponce*
DENISE YUPONCE
Assistant Chief Counsel

EXHIBIT 1

California Insurance Code 12921.8

- (a) The commissioner may do the following:
- (1) Issue a cease and desist order to a person who has acted in a capacity for which a license, registration, or certificate of authority from the commissioner was required but not possessed.
 - (2) Issue a cease and desist order to a person who has aided or abetted a person described in paragraph (1).
 - (3) Impose a monetary penalty, pursuant to an order to show cause, on a person described in paragraph (1) or (2). The monetary penalty shall be the greater of the following:
 - (A) Five times the amount of money received by the person for acting in the capacity for which the license, registration, or certificate of authority was required but not possessed.
 - (B) Five thousand dollars (\$5,000) for each day the person acted in the capacity for which the license, registration, or certificate of authority was required but not possessed. In the absence of contrary evidence, it shall be presumed that a person continuously acted in a capacity for which a license, registration, or certificate of authority was required on each day from the date of the earliest such act until the date those acts were discontinued, as proven by the person at a hearing.
- (b) Notwithstanding paragraph (3) of subdivision (a), the commissioner shall not impose a monetary penalty under this section on a person who has held a license or registration within the prior five years pursuant to Chapter 5 (commencing with Section 1621), Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Chapter 8 (commencing with Section 1831) of Part 2 of Division 1.
- (c) A person to whom a cease and desist order or order to show cause has been issued, may, within seven days after service of the order, if a hearing has not already been scheduled by the commissioner, request a hearing by filing a request for the hearing with the commissioner. The hearing shall be conducted in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner shall have all the powers granted therein.
- (d) A person who has a hearing pursuant to subdivision (c) shall be entitled to have the proceedings and the order of the commissioner reviewed by means of any remedy provided by the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).