

STATE OF NORTH DAKOTA
BEFORE THE INSURANCE COMMISSIONER

In the Matter of)	
)	CONSENT ORDER
State Automobile Mutual Insurance)	
Company,)	FILE NO. CO-23-880
)	
FEIN 31-4316080,)	

Respondent.

Insurance Commissioner Jon Godfread, hereinafter "Commissioner", has determined as follows:

1. The Commissioner has authority in this matter pursuant to N.D.C.C. § 26.1-01-03.
2. State Automobile Mutual Insurance Company, FEIN 31-4316080 ("Respondent"), is an Ohio-domiciled insurance company that provides property and casualty insurance, is licensed under N.D.C.C. ch. 26.1-11 as a foreign corporation, and has been duly authorized to do business in North Dakota.
3. The Commissioner has jurisdiction over the Respondent and the subject matter of this Consent Order, and this Consent Order is made in the public interest.
4. N.D.C.C. § 26.1-25-04(1) requires an insurer to file its proposed rates with the Commissioner before using the rate.

Every insurer shall file with the commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum class rate, rating schedule or rating plan, and every other rating rule, and every modification of any of the foregoing which it proposes to use. Every filing must state the proposed effective date thereof and must indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports the filing, and the commissioner does not have sufficient information to determine whether the filing meets the requirements of this chapter, the commissioner shall require

the insurer to furnish the information upon which it supports the filing and the waiting period commences as of the date the information is furnished. Every insurer shall file or incorporate by reference to material which has been approved by the commissioner, at the same time as the filing of the rate, all supplementary rating and supporting information to be used in support of or in conjunction with a rate.

N.D.C.C. § 26.1-25-04(1).

5. In addition, if a proposed rate change exceeds a certain percentage threshold, it does not meet the Use and File requirements:

A filing with respect to a competitive market commercial risk rate filing, a private passenger automobile rate filing in which the average rate change is less than five percent, or a homeowner rate filing in which the average rate change is less than five percent is deemed to meet the requirements of this chapter until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect. Specific inland marine rates on risks specially rated by an advisory organization become effective when filed and are deemed to meet the requirements of this chapter until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.

N.D.C.C. § 26.1-25-04(05).

6. A rate filing must also be approved by the Commissioner before the insurer may use the rate.

No insurer may make or issue a contract or policy except in accordance with the filings that have been approved and are in effect for the insurer....

N.D.C.C. § 26.1-25-04(10).

7. Pursuant to N.D.C.C. § 26.1-30-19(4),

No casualty or fire and property insurance policy, certificate, contract, or agreement may be issued for delivery or delivered to any person in this state nor may any application, rider, or endorsement be used in connection therewith until the form thereof has been filed and approved by the commissioner to the extent rates are filed and approved pursuant to chapter 26.1-25.

8. Pursuant to N.D.C.C. § 26.1-30-21

If the commissioner disapproves any form, the commissioner shall notify the company or organization which filed the form within sixty days after filing or

within the additional period provided for in section 26.1-30-20 and provide written notice of disapproval of the form, specifying the reasons for disapproval and stating that a hearing may be requested in writing within forty-five days. No company or organization may issue any insurance policy in the form which has been disapproved. If a hearing is requested, the commissioner may suspend or postpone the effective date of disapproval.

9. On May 20, 2022, State Automobile Mutual Insurance Company submitted to the Department a Homeowner's filing (state tracking # 22052016), which showed an average rate change of +12.5%.

10. Respondent filed on a Use and File basis, but since the 12.5% rate exceeded the threshold stated in N.D.C.C. 26.1-25-04(5), it did not meet the Use and File requirements.

11. The Department reviewed Respondent's filing and corresponded with the Respondent thereafter about the filing.

12. On July 27, 2022, the Department disapproved the filing due to inadequate documentation.

13. On August 18, 2022, at the request of, and as a courtesy to the Respondent, the Department reopened the filing. At this time, the Department requested additional documentation from the Respondent regarding the filing and requested the Respondent to address certain concerns the Department had with the filing.

14. While the Respondent thereafter provided the Department with some additional documentation regarding the filing, it failed to address the Department's concerns regarding the filing.

15. As a result, on October 20, 2022, the Department again disapproved the filing.

16. On October 27, 2022, the Respondent contacted the Department again to discuss the filing. During this conversation between the Respondent and the Department, the Department learned the Respondent had been writing business at the proposed rates, despite the fact that the filing had been disapproved twice.

17. The Department learned the Respondent had continued to write business at the unapproved rate up until November 11, 2022.

18. Respondent's implementations of unapproved rates are violations of N.D.C.C. §§ 26.1-25-04, 26.1-30-19(4), and 26.1-30-21.

19. Respondent's violations of law constitute grounds for the Commissioner to impose a civil penalty pursuant to N.D.C.C. § 26.1-01-03.3 and issue an order to Respondent to cease and desist from implementing unapproved rates and policies in violation of N.D.C.C. § 26.1-25-04. Respondent's violations of law further constitute grounds upon which Respondent's Certificate of Authority may be revoked pursuant to N.D.C.C. § 26.1-11-08(2).

CONSENSUAL INFORMAL DISPOSITION

20. Respondent has been duly apprised of all allegations.

21. Respondent and the Commissioner have agreed to an informal disposition of this matter without entry of a Cease and Desist Order by the Commissioner or other further administrative proceedings, as provided by N.D.C.C. § 28-32-22, and enter into the following Consent Order.

NOW, PURSUANT TO THE AGREEMENT OF THE PARTIES, IT IS HEREBY ORDERED THAT:

1. Respondent agrees to immediately stop its practice of implementing unapproved rates and agree to immediately file all forms as required by N.D.C.C. §26.1-30-19(4) if not already done.

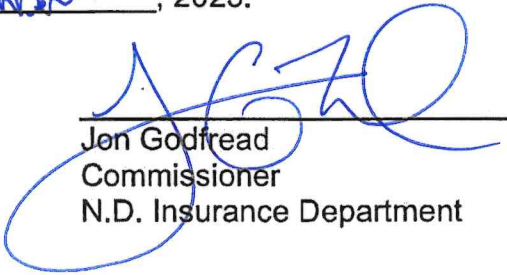
2. Respondent shall, in lieu of other disciplinary action against its Certificate of Authority, pay an administrative penalty in the sum of \$10,000 to the State of North Dakota within 30 days of the execution of this Order. Payment must be mailed to: North Dakota

Insurance Department, 600 East Boulevard Avenue, Dept. 401, Bismarck, ND 58505. If not already completed, Respondent shall file within thirty (30) days of the execution of this Order a corrected premium tax filing statement and any associated taxes and fees with the Department.

3. Respondent shall refund the overage premium to all affected insureds through the process outlined and approved by the Department within 90 days, but no later than 180 days, after the execution of this order.

4. The use of this Consent Order for competitive purposes by an insurance producer or agency holding a license in the State of North Dakota, or by any company holding a Certificate of Authority, or by anyone on their behalf, may be deemed unfair competition and be grounds for suspension or revocation of the license or authority.

DATED this 25th day of November, 2023.



Jon Godfread
Commissioner
N.D. Insurance Department

CONSENT TO ENTRY OF ORDER

The undersigned, Gerald Hayes, on behalf of **State Automobile Mutual Insurance Company** states that the undersigned has read the foregoing Consent Order and is authorized by the Company to consent to the entry of this order. The undersigned, on behalf of the Company, fully understands the contents and effect of the Consent Order. The Company has been advised of its right to be represented by legal counsel, to request a hearing in this matter, to present evidence and arguments to the Commissioner, and of its right to appeal from an adverse determination after hearing. By the signing of this Consent to Entry of Order, the undersigned on behalf of the Company waives those rights

in their entirety and consents to the entry of this Consent Order by the Insurance Commissioner and agrees to be bound by it. It is further expressly understood that this Consent Order constitutes the entire settlement agreement between the parties hereto, there being no other promises or agreements, either express or implied.

DATED this 14 day of November, 2023.

State Automobile Mutual Insurance Company

By: Gerald T Hayes

Print Name: Gerald T Hayes

Title: Director II, State Operations

Subscribed and sworn to before me this ____ day of _____, 2023.

Notary Public

State of _____

County of _____

My Commission Expires: