

**STATE OF NORTH DAKOTA**  
**BEFORE THE INSURANCE COMMISSIONER**

**In the Matter of** )  
 )  
**NAU Country Insurance Company,** )  
**FEIN 42-1265237,** )  
 )  
**Respondent.** )

**FILE NO. 00-22-837**

Insurance Commissioner Jon Godfread (“Commissioner”), has determined as follows:

1. The Commissioner has authority in this matter pursuant to N.D.C.C. § 26.1-01-03.
2. Respondent NAU Country Insurance Company (“Respondent”), FEIN No. 42-1265237, a Minnesota domiciled property and casualty insurance company that provides crop insurance, is licensed under North Dakota Century Code Chapter 26.1-39 and has been duly authorized to do business in North Dakota since February 1, 1997.
3. The Commissioner has jurisdiction over the Respondent and the subject matter of this Consent Order (“Order”). This Order is made in the public interest.
4. National Crop Insurance Services (NCIS) filed their crop hail filing on August 23, 2019, in which they filed the Final Average Loss Cost (FALC) for three cornwind endorsements. The Department initially approved the filing on October 9, 2019. Around the same time, the Department held their annual crop hail meeting, during which the industry intimated that the implementation of these loss costs, without any adjustments was going to create hardships for the carriers and extreme rate changes for the insureds. After the meeting, the Department worked with NCIS to develop a phase-in plan. On November 12, 2019, the Department reopened the

initial August 23, 2019 filing and allowed NCIS to submit revised FALCs for the cornwind endorsement and reapproved the filing on that same date.

5. NAU Country Insurance Company filed their crop filing on January 14, 2020 indicating their adoption of the FALCs. Recently, in working with NAU to facilitate consumer refunds due to NCIS' miscalculation of FALCs for the cornwind endorsements, the Department discovered that rather than using the approved phase-1 loss costs, NAU was using the original loss costs that were filed on August 23, 2019. NAU wrote \$98,000 on forty-four (44) policies using the incorrect FALCs.

6. Section 26.1-25-04 of the North Dakota Century Code states:

**26.1-25-04. Rate filings.**

1. 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. The information furnished in support of a filing may include:

- a. The experience or judgment of the insurer or advisory organization making the filing.
- b. Its interpretation of any statistical data upon which it relies.
- c. The experience of other insurers or advisory organizations.
- d. Any other relevant factors. A filing and any supporting information is open to public inspection after the filing becomes effective. Specific inland marine rates on risks specially rated, made by an advisory organization, must be filed with the commissioner.

2. After reviewing an insurer's filing, the commissioner may require that the insurer's rates be based upon the insurer's own loss and expense information. If the insurer's loss or allocated loss adjustment expense information is not actuarially credible, as determined by the commissioner, the insurer may use or

supplement its experience with information filed with the commissioner by an advisory organization. Insurers utilizing the services of an advisory organization must provide with their rate filing, at the request of the commissioner, a description of the rationale for such use, including its own information and method of utilization of the advisory organization's information. This chapter does not require any insurer to become a member of or a subscriber to any advisory organization.

3. The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this chapter.

4. Subject to the exceptions specified in subsections 5 and 6, each filing must be on file for a waiting period of sixty days before it becomes effective. The period may be extended by the commissioner for an additional period not to exceed fifteen days if the commissioner gives written notice within the waiting period to the insurer or advisory organization which made the filing that the commissioner needs the additional time for the consideration of the filing. Upon written application by the insurer or advisory organization, the commissioner may authorize a filing which the commissioner has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing is deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or any extension thereof.

5. 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.

6. An insurer must file notice of a rate change for either a competitive market commercial risk product, 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 with the commissioner within thirty days after implementing the rate change. The exemption provided in subsection 5 for a private passenger automobile or homeowner rate change filing is limited to no more than one filing per calendar year.

7. The commissioner after notice and hearing may determine by order that a commercial risk market is noncompetitive. A rate filing for a product in a noncompetitive commercial risk market is subject to the provisions of this chapter. The commissioner's order finding that a commercial risk market is noncompetitive expires after two years.

8. Under any rules the commissioner may adopt, the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision, or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. The orders and rules

must be made known to insurers and advisory organizations affected thereby. The commissioner may make any examination the commissioner deems advisable to ascertain whether any rates affected by the order meet the standards set forth in subdivision e of subsection 1 of section 26.1-25-03.

9. Upon the written application of the insured, stating the insured's reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

10. 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 as provided in this chapter or in accordance with subsection 8 or 9.

11. Nothing in this chapter may be construed to require an advisory organization or its members or its subscribers to immediately refile final rates or premium charges previously approved by the commissioner. Members or subscribers of an advisory organization are authorized to continue to use insurance rates or premium charges approved before July 1, 1991, or decreases from those rates or premium charges filed by the advisory organization and subsequently approved after July 1, 1991.

Section 26.1-01-03.3 states "Unless otherwise provided by law, a person who violates this title is subject, after hearing by the Commissioner, to payment of an administrative monetary penalty of up to ten thousand dollars."

7. The Respondent failed to use the approved rates, resulting in \$98,000 worth of business on 44 policies. This conduct is a direct violation of N.D.C.C. §26.1-25-04.

#### CONSENSUAL INFORMAL DISPOSITION

8. Respondent has been duly apprised of the allegation contained in this Consent Order.

9. Respondent and the Commissioner have agreed to an informal disposition of this matter without 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 shall pay an administrative penalty in the total amount of \$5,000 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 or may be accepted via phone at 701-328-2440.

2. The use of this 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 8<sup>th</sup> day of February, 2022.

  
Jon Godfread  
Commissioner  
N.D. Insurance Department

**CONSENT TO ENTRY OF ORDER**

The undersigned, James Korin, on behalf of NAU Country 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 waives those rights in their entirety and consents to the entry of this Consent Order by the Commissioner of

Insurance 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 \_\_\_\_\_ day of January 26, 2022, 2022.

NAU Country Insurance Company

By: E-SIGNED by James Korin  
on 2022-01-26 15:04:43 CST  
Title: President

Subscribed and sworn to before me  
this \_\_\_\_\_ day of January 26, 2022, 2022.

E-SIGNED by Michelle Adams  
on 2022-01-26 16:29:22 CST  
\_\_\_\_\_  
Notary Public

State of \_\_\_\_\_  
County of \_\_\_\_\_

My Commission Expires: