

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

<b>In the Matter of</b>	)	
	)	
<b>Equitable Life and Casualty</b>	)	<b>CONSENT ORDER</b>
<b>Insurance Company,</b>	)	
<b>FEIN 87-0129771,</b>	)	<b>CASE NO. CO-02-089</b>
	)	
<b>Respondent.</b>	)	

Commissioner of Insurance Jim Poolman (hereinafter "Commissioner") has determined as follows:

1. The Commissioner has authority in this matter pursuant to N.D. Cent. Code Title 26.1 and N.D. Cent. Code § 28-32-05.1.
2. Equitable Life and Casualty Insurance Company, FEIN 87-0129771 (hereinafter "Respondent"), is a foreign insurance company domiciled in Utah and licensed to do business in North Dakota pursuant to N.D. Cent. Code Chapter 26.1-11.
3. The Commissioner has jurisdiction over the Respondent and the subject matter of this Consent Order is made in the public interest.
4. On or about March 2002, Department staff noticed as a result of a review of Medicare supplement rates, that the rates submitted for Respondent's high deductible Medicare supplement health plans did not match the Department's records.
5. Through further investigation and correspondence with Respondent, it was discovered that Respondent had implemented a 15% rate increase for the high deductible plan even

through the requested 15% increase was denied by the Department as clarified by letter dated July 27, 2000.

6. Respondent admits implementing the nonapproved rate increase and acknowledges that four policyholders were charged premiums in excess of those approved by the Department.

7. As a result of the Department's investigation, Respondent refunded \$502.09 in premium overcharges to the four policyholders and has notified the policyholders of the error and has corrected the error for future premiums.

8. Respondent has apologized for the oversight and has assured the Department that its error was not willful, and that this was the first time in over seven years and over numerous state filings that an increase was implemented in error.

9. N.D. Cent. Code § 26.1-30-19 states, in part:

No insurance policy, contract, agreement, or rate schedule may be issued or delivered in this state until the form of that policy, contract or agreement, or rate schedule has been filed with and approved by the commissioner.

10. Respondent's use of a nonapproved rate increase violates N.D. Cent. Code § 26.1-30-19.

11. As a result of information obtained by the Department regarding the conduct of Respondent, the Commissioner has considered scheduling a formal hearing to determine whether Respondent's conduct, as alleged, constitutes a basis for imposition of civil penalty, or any action that the Commissioner deems necessary.

12. As a result of the above violation, Respondent is subject to payment of an administrative monetary penalty of up to \$10,000 under N.D. Cent. Code § 26.1-01-03.3.

13. Respondent has agreed to an informal disposition of this matter, without a hearing, as provided under N.D. Cent. Code § 28-32-05.1.

14. For purposes of resolving this matter, without further administrative proceedings, Respondent and the Commissioner have agreed to enter the following Order:


NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent is assessed a monetary penalty in the amount of \$2,000 which shall be paid within fifteen (15) days of the execution of this Order.

2. If not already accomplished, Respondent will refund all unauthorized premiums and adjust rates for the Respondent's high deductible Medicare supplement health plans to reflect those approved by the Department.

3. The use of this Consent Order for competitive purposes by an insurance agent 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 said license or authority.

DATED this 28<sup>th</sup> day of October, 2002.

  
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Jim Poolman  
Commissioner of Insurance  
State of North Dakota


CONSENT TO ENTRY OF ORDER

The undersigned, E. Rod Ross, on behalf of **Equitable Life and Casualty Insurance Company**, states that he/she has read the foregoing Consent Order, that he/she knows and fully understands its contents and effect; that he/she has been advised of his/her right to be represented by legal counsel, his/her right to a hearing in this matter, his/her right to present


evidence and arguments to the Commissioner, and his/her right to appeal from an adverse determination after hearing; and that by the signing of this Consent to Entry of Order he/she waives those rights in their entirety, and consents to entry of this Order by the Commissioner of Insurance. It is further expressly understood that this Order constitutes the entire settlement agreement between the parties hereto, there being no other promises or agreements, either expressed or implied.

DATED this 22nd day of October, 2002.

Equitable Life and Casualty Insurance Company

By:   
Name  
E. Rod Ross  
Title President

Subscribed and sworn to before me this 22<sup>nd</sup> day of October, 2002.

  
Notary Public

My commission expires:

