

STATE OF NORTH DAKOTA
BEFORE THE COMMISSIONER OF INSURANCE

In the Matter of)	
)	
North Star Mutual Insurance Company,)	CONSENT ORDER
FEIN 41-0446480,)	
)	
Respondent.)	

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. North Star Mutual Insurance Company, FEIN 41-0446480 (hereinafter "Respondent"), is a foreign insurance company domiciled in Minnesota 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. During 2002 and 2003, Respondent increased commercial policyholder rates under its Individual Risk Premium Modification Plan even though there was no change in the commercial policyholder risk. Respondent's action of increasing commercial policyholder rates without approval violates N.D. Cent. Code §§ 26.1-25-04 (use of unapproved rates) and 26.1-30-19 (use of unapproved forms) and N.D. Admin. Code §§ 45-05-06-03 and 45-05-06-04 (use of

unjustified rate modification plans in rating commercial property and casualty risks). Copies of sections are attached.

5. Respondent improperly overcharged approximately 340 commercial policyholders approximately \$7,685 in total and has agreed to refund the overcharges.

6. 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.

7. 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.

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

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

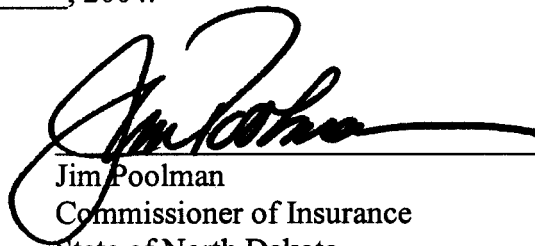
NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent will refund to the commercial policyholders the amounts improperly overcharged totaling \$7,685.

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

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 13th day of April, 2004.

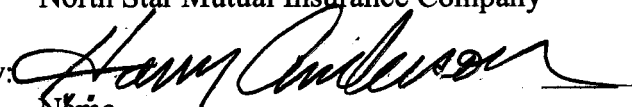


Jim Poolman
Commissioner of Insurance
State of North Dakota

CONSENT TO ENTRY OF ORDER

The undersigned, HARRY ANDERSON, on behalf of North Star Mutual 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 13 day of April, 2004.

North Star Mutual Insurance Company
By: 
Name
Vice President / Underwriting
Title

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 subsection 5, 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. Any special filing with respect to a surety or guaranty bond required by law or by court or executive order or by order or rule of a public body, not covered by a previous filing, becomes effective when filed and 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. 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.
7. 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.
8. 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 6 or 7.
9. 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.

26.1-30-19. Policy forms to be filed with and approved by commissioner.

1. No insurance policy, contract, agreement, or rate schedule may be issued or delivered in this state until the form of that policy, contract, agreement, or rate schedule has been filed with and approved by the commissioner.
2. No life insurance policy, certificate, contract, or agreement or annuity contract 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 with and approved by the commissioner and is in compliance with chapters 26.1-33, 26.1-34, 26.1-35, and 26.1-37.
3. No insurance policy, certificate, contract, or agreement or notice of proposed insurance against loss or expense from the sickness, bodily injury, or death by accident of the insured 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 and the classification of risks and the premium rates, or in the case of cooperatives or assessment companies the estimated costs pertaining thereto, have been filed with and approved by the commissioner. A form must be disapproved if the benefits provided are unreasonable in relation to the premium charge or if the benefits do not comply with chapters 26.1-36 and 26.1-37.
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.

45-05-06-03. Rate modification plans. Rate modification plans, justified according to the standards herein, are allowed by the insurance code. However, the commissioner has determined that the use of unjustified rate modification plans is not reasonable, is not objective, and is unfairly discriminatory. Therefore, the use of unjustified rate modification plans in rating of commercial property and casualty insurance risks located in North Dakota is prohibited. The following elements must be considered in determining whether or not a rate modification plan, or its use, is justified:

1. Rate modification plans must be used to acknowledge variance in risk characteristics and not merely to gain competitive advantage or for any other purpose.
2. Rate modification plans must be based only on rating characteristics not already reflected in the manual rates. The plans must clearly indicate the objective criteria to be used.
3. Individual underwriting files must contain the specific criteria and document the particular circumstances of the risk that support each debit or credit. This documentation must exist in the individually rated risk file to enable the commissioner to verify compliance with this chapter. Documentation may include, but is not limited to, inspection reports, photographs, agent observations and findings, insured's formal safety plans, premises evaluations, and narrative reports covering other aspects of the risk. Intentional or willful misclassification of a risk constitutes a modification without justification.
4. Any rate modification plan designed to be applied simultaneously to property, liability, or vehicle coverage must contain reasonable factors that give appropriate recognition to the distinct exposures involved in such coverages.
5. Once a company has filed a rate modification plan, its use is mandatory. The plan must be applied uniformly in a nondiscriminatory manner for all eligible classes of risk.
6. The application of any rate modification plan may not result in debits or credits that exceed twenty-five percent. Modifications generated by experience rating plans or based upon company expense experience are not subject to this limitation.
7. Once a rate modification plan has been applied to a risk and a credit or debit established, no change in the established credit or debit can be made without appropriate justification and documentation.
8. Any rate modification plan must provide that when a risk is rated below average (debited) an insured or applicant, upon request, will be advised by the insurer of the factors which resulted in the adverse rating so that the insured or applicant will be fairly apprised of any corrective action that might be appropriate with respect to the insurance risk.

45-05-06-04. Experience rating plans. Exposure, premium, and loss figures used in the calculation of experience rating plans must be verifiable and justifiable.