**STATE OF NORTH DAKOTA**

**BEFORE THE INSURANCE COMMISSIONER**

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| **In the Matter of** | ) | |
| | ) | |
| **Dakota Bail Bonds, Inc. dba** | ) | **CONSENT ORDER** |
| **Williston Bail Bonds,** | ) | |
| **NPN 17026439,** | ) | **CASE NO. AG-16-590** |
| | ) | |
| **Respondent.** | ) | |

**TO: Dakota Bail Bonds, Inc., 720 Main Avenue, Fargo ND 58103**

Insurance Commissioner Adam Hamm ("Commissioner") has determined as follows:

1. As a result of information obtained by the North Dakota Insurance Department ("Department") regarding the conduct of Dakota Bail Bonds, Inc. dba Williston Bail Bonds, NPN 17026439 ("Respondent"), which is presently and has been at all relevant times, a licensed North Dakota business entity resident insurance producer with a line of authority for bail bonds, the Commissioner has considered initiating administrative proceedings regarding Respondent's conduct as alleged below and regarding the imposition of a civil penalty or any other action the Commissioner deems necessary. Respondent's conduct is alleged to be in violation of N.D.C.C. §§ 26.1-26-13.3(2), 26.1-26-33, 26.1-26.6-05(1), and 26.1-26.6-08.

2. N.D.C.C. chapters 26.1-26 and 26.1-26.6 regulate the licensing and conduct of bail bond agents.

3. N.D.C.C. § 26.1-26.6-05(1) provides in part:

The commissioner may suspend, revoke, or refuse to continue, issue, or renew any license issued under this chapter if, after notice to the licensee and hearing, the commissioner finds as to the licensee any of the following conditions:

. . .

f. Accepting anything of value from a principal other than a premium ...

4. N.D.C.C. § 26.1-26.6-08 provided at the time of the conduct:

A bail bond agent may not charge a premium, commission, or fee for a bond in an amount more than ten percent of the amount of bail furnished by the bail bond agent, or seventy-five dollars, whichever is greater.

5. N.D.C.C. § 26.1-26-33 provides:

Every licensee shall notify the commissioner of any change in the licensee's residential or business address or legal name within thirty days of the change. Any licensee who ceases to maintain residency in this state shall deliver the insurance license to the commissioner by personal delivery or by mail within thirty days after terminating residency.

6. N.D.C.C. § 26.1-26-13.3(2) provides:

A business entity acting as an insurance producer must obtain an insurance producer license. Application must be made using the uniform business entity application. Before approving the application, the commissioner must find that:

. . .

b. The business entity has designated a licensed individual principal insurance producer responsible for the business entity's compliance with the insurance laws, rules, and regulations of this state;

c. The individual designated as the licensed principal insurance producer of the business

> entity has taken the examination required by section 26.1-26-13.2. The business entity may only be licensed for those lines of insurance for which one or more of its principal insurance producers is licensed. The business entity shall inform the commissioner within ten working days of any change in the status of its principal insurance producer or producers.

7. The Commissioner has come into information which alleges that Respondent has violated the above quoted sections of the North Dakota Century Code.

8. Respondent's mailing address is currently listed as P.O. Box 24, Lewistown, MT 59457. Its email address is currently listed as chris@centralmontanabailbonds.com. This mailing address and email address do not belong to Dakota Bail Bonds but belong to a previous designated responsible licensed producer ("DRLP"), Richard Wright. Mr. Wright is no longer with Dakota Bail Bonds and has not been with Dakota Bail Bonds for longer than 30 days. Respondent's failure to update its information is a violation of N.D.C.C. § 26.1-26-33.

9. On or about August 16, 2013, Andrea Gutierrez was added as a DRLP for Respondent. Gutierrez terminated her employment with Respondent less than one year later and took employment elsewhere. She was not removed as a DRLP until May 4, 2015, at which time Montero Sample was added as the DRLP. Therefore, for nearly one year, Respondent did not have a valid DRLP. This is a violation of N.D.C.C. § 26.1-26-13.3.

10. On or about March 5, 2015, the Department was notified that the Northwest Judicial District would no longer be accepting bonds from Respondent due to nonpayment on a number of surety bonds. At that time, seven bonds had been forfeited

and payment was due in the amount of $49,000. The Department obtained a number of files from Marty Maciel, the current owner of Respondent.

11. During the course of reviewing the files provided, it was discovered that, prior to August 1, 2015, Respondent had been charging a $50 "miscellaneous fee" on the bonds in addition to the premium. This would amount to hundreds of bonds. Ms. Gutierrez indicated that this was a "writer's fee" she received in addition to a percentage of the premium no matter how small the bond. Mr. Maciel stated this was a "posting fee" which was charged "since the very beginning." Maciel also indicated that once he was told by a competitor that it was a violation of the law, he ceased charging the $50 fee. However, a bond written in May 2015 included a $100 "posting fee." No substantiation was found for these fees. These miscellaneous fees were charged in violation of N.D.C.C. § 26.1-26.6-08.

12. During the course of its investigation, the Department also discovered 30 bonds written before August 1, 2015, which included a premium amount in excess of the amount allowed under North Dakota law at that time. These bonds included premiums from $25 to $75 over the allowed premium amount in violation of N.D.C.C. § 26.1-26.6-08.

13. Respondent has agreed to informal disposition of this matter, without a hearing, as provided under N.D.C.C. § 28-32-22. For purposes of resolving this matter, without further administrative proceedings, Respondent and the Commissioner have agreed to enter into the following Order.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent's business entity insurance producer license is hereby **REVOKED** effective upon the Commissioner's execution of this Order.

2. No administrative fine or other civil penalty is imposed.

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 at Bismarck, North Dakota, this 17th day of June, 2016.

Adam Hamm
Insurance Commissioner
State of North Dakota

**CONSENT TO ENTRY OF ORDER**

The undersigned, **Marty Maciel** for **Dakota Bail Bonds, Inc.,** states that he has read the foregoing Consent Order, that he knows and fully understand its contents and effect; that he has been advised of Dakota Bail Bonds' right to a hearing in this matter, its right to be represented by legal counsel, its right to present evidence and arguments to the Commissioner, and its right to appeal from an adverse determination after hearing; and that by the signing of this Consent to Entry of Order he waives those rights in their entirety, and consents to entry of this Order by the Commissioner. It is further expressly understood that this Order constitutes the entire

settlement agreement between the parties, there being no other promises or agreements, either expressed or implied.

DATED this 13 day of June, 2016

Dakota Bail Bonds, Inc.

Print Name: Marty Maciel

Title: OFFICER

Subscribed and sworn to before me this 13 day of June, 2016.

Cherie Jens

Notary Public

State of SOUTH DAKOTA

County of CODINGTON

MCE - 8-19-17

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NORTH DAKOTA
INSURANCE DEPARTMENT