

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

<b>In the Matter of</b>	)	
	)	<b>CONSENT ORDER</b>
<b>Todd Haki,</b>	)	
<b>NPN 2765189,</b>	)	<b>CASE NO. AG-14-491</b>
	)	
<b>Respondent.)</b>	)	

**TO: Todd Haki, 30975 475<sup>th</sup> Avenue, Alcester, SD 57001**

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

1. As a result of information obtained by the North Dakota Insurance Department ("Department") regarding the conduct of Todd Haki, NPN 2765189 ("Respondent"), the Commissioner has considered scheduling a formal hearing to determine whether Respondent's conduct as alleged constitutes a basis for imposition of a civil penalty or any other action the Commissioner deems necessary.

2. Respondent's conduct is alleged to be in violation of provisions of two chapters of the North Dakota Administrative Code: Chapter 45-06-04 – Advertising Rules (in the advertising of disability and accident and sickness insurance including long-term care insurance) and Chapter 45-06-05.1 – Long-Term Care Insurance Model Regulation (applicable to policies delivered on or after March 1, 2004), as set out below.

3. Respondent has held a North Dakota nonresident insurance producer license since November 15, 2011. Respondent is subject to the jurisdiction and control of the Commissioner. Respondent also holds a resident insurance producer license in South Dakota.

4. In May 2014, Respondent caused a promotional mailer advertising “The North Dakota State Partnership for Long Term Care” (“mailer”) to be sent to residents of North Dakota. Copies of the mailer and the business reply envelope accompanying the mailer are attached to the Consent Order as Exhibit A. The mailer was sent to approximately 1,000 addresses in North Dakota.

5. The mailer is a promotion for long-term care insurance.

6. The mailer is an advertisement within the meaning of N.D. Admin. Code § 45-06-04-03(1) which states:

An "advertisement" for the purpose of this chapter includes:

- a. Printed and published material, audio visual material, and descriptive literature of an insurer, agent, or broker used in direct mail ...
- b. Descriptive literature, identification cards, and sales aids of all kinds used by an insurer, agent, or broker for presentation to members of the insurance buying public, including, but not limited to, circulars, business calling cards, lead cards, surveys, leaflets, booklets, depictions, illustrations, and form letters ....

7. Respondent is responsible for the mailer content, pursuant to N.D. Admin.

Code § 45-06-04-02(2) which states:

Every insurer, agent, or broker shall establish and at all times maintain a system of control over the content, form, and method of dissemination of all advertisements of its policies. All such advertisements, regardless of by whom written, created, designed, or presented, are the joint and several responsibility of the insurer, agent, broker, or agency for whom such advertisements are prepared.

8. N.D. Admin. Code § 45-06-04-10 – Identity of Insurer and Agent or Agency states the following requirements for advertisements of accident and health insurance including long-term care insurance.

1. The full legal name of the actual insurer and insurance agent or agency must be shown in each advertisement.

An advertisement may not use a trade name, any insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer or agency, service mark, slogan, symbol, or other device in a manner which would have the capacity and tendency to mislead or deceive as to the true identity of the insurer or insurance agent or agency.

2. No advertisement may use any combination of words, symbols, or physical materials which by their content, phraseology, shape, color, or other characteristics are so similar to combination of words, symbols, or physical materials, used by agencies of the federal government or of this state, or otherwise appear to be of such a nature that it tends to confuse or mislead prospective insureds into believing that the solicitation is in some manner connected with an agency of the municipal, state, or federal government.
3. Each advertisement must clearly disclose that it is a promotion for an insurance product, company, agent, or agency.

9. The mailer violates N.D. Admin. Code § 45-06-04-10(1) because it fails to state the full legal name of the actual insurer.

10. The mailer violates N.D. Admin. Code § 45-06-04-10(2) because it refers to a state "program" ("North Dakota State Partnership for Long Term Care" and "The State of North Dakota has created a program to help residents..."), used with the disclaimer "Not affiliated with any state or government agency" in minimal font. The mailer has the capacity to confuse or mislead prospective insureds into believing the solicitation is connected with state government.

11. N.D. Admin. Code § 45-06-05.1-21 – Standards for Marketing states the following requirement for the marketing of long-term care policies:

2. In addition to the practices prohibited in North Dakota Century Code section 26.1-04-03, the following acts and practices are prohibited:

...

- c. Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

12. The mailer violates N.D. Admin. Code § 45-06-04-10(3) and § 45-06-05.1-21 because it fails to state it is a promotion for an insurance product, company, agent, or agency. Neither the mailer nor the business reply envelope gives any indication that an insurance producer is marketing an insurance product.

13. N.D. Admin Code § Section 45-06-04-04 – Form and Content of Advertisements states the following requirements:

1. The format and content of an advertisement to which this chapter applies must be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Whether an advertisement has a capacity or tendency to mislead or deceive must be determined by the insurance commissioner from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence, within the segment of the public to which it is directed.
2. Advertisements must be truthful and not misleading in fact or in implication. Words or phrases, the meaning of which is clear only by implication or by familiarity with insurance terminology, may not be used.

14. The segment of the public to which the mailer is directed is senior citizens and others potentially needing long-term care. The mailer states:

This program helps protect your assets from the cost of needed care either at home, in an assisted living facility, or in a nursing home while helping you preserve your dignity and independence.

15. The mailer violates N.D. Admin. Code § 45-06-04-04(2) because it is untruthful and misleading by the statement, "Information provided by Partnership certified agent Todd Hakl". North Dakota does not recognize partnership certification for insurance

agents. The mailer further violates N.D. Admin. Code § 45-06-04-04(2) because it is untruthful and misleading by the statement:

Important Information is now available  
Regional LTC Office  
3587 Fillmore St. S  
Fargo, ND 58104[.]

The address given is not a regional long-term care office for any entity.

16. 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 shall pay a fine of \$1,000 to the Department. Respondent shall pay the fine within 10 business days of his signing of this document.

2. 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.

3. This Consent Order becomes effective on the date of signature by the Commissioner.

DATED at Bismarck, North Dakota, this 10<sup>th</sup> day of December, 2014.



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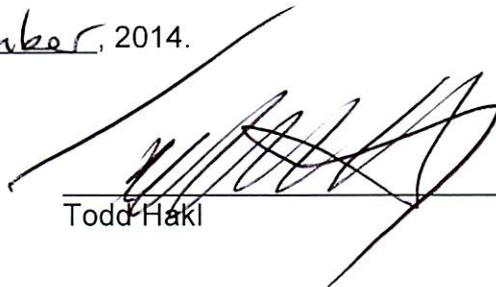
Adam Hamm  
Insurance Commissioner  
State of North Dakota

**CONSENT TO ENTRY OF ORDER**

The undersigned, **Todd Haki**, states that he has read the foregoing Consent Order, that he knows and fully understands its contents and effect; that he has been advised of his right to a hearing in this matter, his right to be represented by legal counsel, his right to present evidence and arguments to the Commissioner, and his 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 hereto, there being no other promises or agreements, either expressed or implied.

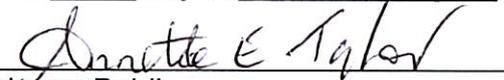
DATED this 1 day of December, 2014.



  
\_\_\_\_\_  
Todd Haki

State of SOUTH DAKOTA  
County of MINNEHAHA

Subscribed and sworn to before me  
this 1ST day of DECEMBER, 2014.

  
\_\_\_\_\_  
Notary Public

My commission expires:

My commission expires  
October 28, 2015

*Introducing the North Dakota State Partnership for Long Term Care Important Information is now available*

Regional LTC Office  
3587 Fillmore St S  
Fargo, ND 58104

Please verify address



A barcode is located above a rectangular box intended for address verification. The box contains several horizontal lines, likely for a return address or recipient information.

SND-PTJ

4-656-60-46-106456-402465

The State of North Dakota has created a program to help residents protect their assets from the high costs of Long Term Care.

This program helps protect your assets from the cost of needed care either at home, in an assisted living facility, or in a nursing home while helping you preserve your dignity and independence.

North Dakota residents may qualify to receive a \$250 tax credit based on program guidelines.

To request information about the North Dakota State Partnership program complete and return this card.

Name: \_\_\_\_\_

Day Phone: (\_\_\_\_) \_\_\_\_\_ Evening: (\_\_\_\_) \_\_\_\_\_

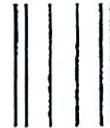
Email: \_\_\_\_\_

Date of Birth: Yours: \_\_\_\_/\_\_\_\_/\_\_\_\_ Spouse: \_\_\_\_/\_\_\_\_/\_\_\_\_

Please check here if you already have LTC coverage.

Information provided by Partnership certified agent Todd Hakk.  
No Cost or Obligation. Not affiliated with any state or government agency.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES



**BUSINESS REPLY MAIL**  
FIRST-CLASS MAIL PERMIT NO. 9 SARTELL MN

POSTAGE WILL BE PAID BY ADDRESSEE

NATIONAL PROCESSING OFFICE  
PO BOX 9  
SARTELL MN 56377-9968

