

BEFORE THE
DIVISION OF SECURITIES
DEPARTMENT OF FINANCIAL INSTITUTIONS
STATE OF WISCONSIN

In the Matter of
NATIVE AMERICAN INSURANCE COMPANY, INC.,
NATIVE AMERICAN MUTUAL INSURANCE COMPANY, and
DANIEL D. HAWK,

PETITION FOR ORDER

Respondents.

File No. S-03038(EX)

The staff of the State of Wisconsin, Department of Financial Institutions, Division of Securities, Bureau of Registration & Enforcement, has conducted an investigation in this matter pursuant to sec. 551.56, Wis. Stats. and as a result thereof alleges as follows:

1. Native American Insurance Company, Inc. (“NAIC”), is a business entity with a last known address at that of 1318 Glacier Hill Drive, Madison, Wisconsin 53704;
2. Native American Mutual Insurance Company (“NAMIC”), is a business entity with a last known address at that of 1318 Glacier Hill Drive, Madison, Wisconsin 53704;
3. Daniel D. Hawk (“Hawk”) is an individual with a date of birth of February 12, 1960, who at all times material hereto has been an owner, officer and controlling person of NAIC and NAMIC and who at all times material hereto was an insurance agent licensed by the State of Wisconsin, Office of the Commissioner of Insurance (“OCI”), with a last known home address at that of 1318 Glacier Hill Drive, Madison, Wisconsin 53704;
4. According to documents of the OCI, beginning in 2001, the OCI investigated Hawk, NAIC and NAMIC for their insurance and investment-related transactions;
5. According to statements made under oath by Hawk to staff of the OCI, during the period of 2001 and 2002, Hawk offered and sold to at least six persons who reside in Wisconsin investment interests in NAIC and/or NAMIC;
6. According to a letter dated November 23, 2001 from Hawk to staff of the OCI concerning the investment-related activities of Hawk, “Since our initial incorporation date of October 22, 2001 and our ‘hold’ date of November 13, 2001 we have solicited NAIC stock in Wisconsin to approximately 40 individuals. ... We have ceased all stock solicitations as of November 23, 2001.”;
7. The OCI issued an Order against NAIC on April 18, 2002 to “cease soliciting any investment, contribution or subscription until an organization permit is obtained from the Commissioner.”;
8. On January 28, 2001, Hawk met at the Division of Securities (“the Division”) with staff of the Division concerning Hawk’s intended offering of stock of NAIC to persons in Wisconsin;
9. According to staff of the Division, at the meeting referred to in Paragraph 8 above, Hawk received information about, among other things, possible preliminary changes to a proposed offering document for stock of NAIC, and about making a filing of the NAIC stock offering with the Division;

10. According to testimony and documents of one person given to staff of the Division, a person invested in the stock of NAIC through Hawk in February 2002 in Wisconsin;
11. Pursuant to the offering materials received by the person in Wisconsin, referred to in Paragraph 10 above, NAIC will engage in the business of providing certain types of health insurance to Native Americans as a group;
12. According to statements made by Hawk to staff of the Division at a meeting on March 28, 2003, pursuant to a subpoena for testimony and documents issued by the Division to Hawk, Hawk offered and sold investments of NAIC to 10 persons;
13. The stock of NAIC sold to the person in Wisconsin, referred to in Paragraph 10 above, has never been registered for offer and sale in Wisconsin pursuant to Ch. 551, Wis. Stats.;
14. NAIC and Hawk have violated sec. 551.21(1), Wis. Stats., by offering and selling unregistered securities of NAIC to a person in Wisconsin;
15. According to the website of NAMIC on the Internet, as of April 1, 2003, "You can invest your money in stocks that not only meet solid investing criteria but also have an eye toward environmental and tribal concerns. Seize the opportunity to work with a Native American company that can take care of your money and fix financial problems. ... Investment opportunities are available for tribes and individuals. Contact us to learn more about how you can invest your money in and with Native American Mutual.";
16. The stock of NAMIC offered to persons in Wisconsin through the website of NAMIC, referred to in Paragraph 15 above, has never been registered for offer and sale in Wisconsin pursuant to Ch. 551, Wis. Stats.;
17. NAMIC and Hawk have violated sec. 551.21(1), Wis. Stats., by offering unregistered securities of NAMIC to persons in Wisconsin;
18. The offering materials of NAIC received by a person in Wisconsin, referred to in Paragraph 10 above, state that "Our Company has not had any past, pending, or threatened litigation or administrative action.";
19. The OCI began investigating the investment-related transactions of Hawk, NAIC and NAMIC beginning in 2001 and continuing throughout 2002 and into 2003;
20. Hawk has violated sec. 551.41(2), Wis. Stats., by making an untrue statement of a material fact in connection with the offer and sale of securities to a person in Wisconsin;
21. The offering materials of NAIC received by a person in Wisconsin, referred to in Paragraph 10 above, state that "This Offering has been registered for offer and sale by Ft. Peck Tribes.";
22. Upon information and belief, the offering of NAIC is not registered with the Ft. Peck Tribes for offer and sale, as referred to in Paragraph 21 above;
23. Hawk has violated sec. 551.41(2), Wis. Stats., by making an untrue statement of a material fact in connection with the offer and sale of securities to a person in Wisconsin; and
24. According to staff of the Division, on March 28, 2003, Hawk met with staff of the Division pursuant to a subpoena and refused to provide certain testimony and documents relating to the above-referenced securities-related transactions.

Therefore, the staff of the Bureau of Registration & Enforcement petitions the Administrator of the Division of Securities for the issuance of the attached Order pursuant to Ch. 551, Wis. Stats.

