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8 **BEFORE THE INSURANCE COMMISSIONER**
9 **OF THE STATE OF CALIFORNIA**
10

11 In the Matter of the Rates, Rating Plans, Rating
12 Systems, or Underwriting Practices of

13 GLOBAL AEROSPACE, INC. (NAIC AA-
14 9995137),

15 Respondent.

File No.: NC-2023-00002

NOTICE OF NONCOMPLIANCE
[Ins. Code § 1858 et seq.]

16 **TO RESPONDENT:** GLOBAL AEROSPACE, INC. (NAIC AA-9995137)

17 **NOTICE OF NONCOMPLIANCE**
18 **PURSUANT TO INSURANCE CODE SECTION 1858.1**

19 THE CALIFORNIA DEPARTMENT OF INSURANCE (“Department”) HEREBY
20 NOTIFIES GLOBAL AEROSPACE, INC. (hereinafter also referred to “Respondent”) that the
21 Insurance Commissioner of the State of California (“Commissioner”) has good cause to believe
22 that Respondent’s rates, rating plans, rating systems, and underwriting rules violate various
23 California laws, including, without limitation, Insurance Code section 1861.01, subdivision (c);
24 Insurance Code section 1861.05, subdivisions (a) and (b); and Title 10 of the California Code of
25 Regulations (“10 CCR”) sections 2360.3 and 2360.4. Pursuant to Insurance Code section 1858.1,
26 this Notice sets forth the manner and extent of the noncompliance.
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1 **BACKGROUND FACTS**

2 The Department is informed and believes and thereupon alleges the following:

3 1. Respondent is and was at all relevant times a licensed reinsurer in the State of
4 California and manager of a joint underwriting association known as “The Global Aerospace
5 Underwriters Pool” which provides underwriting and claim services to its insurer members, who
6 are and were at all relevant times licensed to transact the business of insurance in the State of
7 California on risks or lines that are subject to the provisions of, *inter alia*, Insurance Code section
8 1861.01, subdivision (c); Insurance Code section 1861.05, subdivisions (a) and (b); and 10 CCR
9 sections 2360.3 and 2360.4.

10 2. Respondent through its affiliated company, Global Aerospace Underwriting
11 Managers, Ltd., are and were at all relevant times parties to an agreement titled “Members’
12 Agreement Relating to the Global Aerospace Underwriters Pool” dated November 28, 2002
13 (hereinafter referred to as “Pool Agreement”), wherein Respondent is named as an appointed
14 agent (License No. OK47154) duly authorized to act on behalf of the Member Insurers inclusive,
15 with respect to specified insurance business activities, which include, *inter alia*, the filing of rate
16 applications for prior approval with the Department’s Rate Regulation Bureau.

17 3. At all times mentioned herein, by operation of the Pool Agreement, Respondent
18 has been the agent of the Member Insurers and has acted within the scope of this agency, with
19 actual or ostensible authority and/or agency, with each of the Member Insurers having ratified the
20 actions and conduct of Respondent.

21 4. As a result of the Pool Agreement and its agency relationship with the Member
22 Insurers, Respondent has at all relevant times been subject to the provisions of, *inter alia*,
23 Insurance Code section 1861.01, subdivision (c); Insurance Code section 1861.05, subdivisions
24 (a) and (b); and 10 CCR sections 2360.3 and 2360.4.

25 5. In or about 2007, Respondent began issuing to policyholders optional coverage
26 endorsements as part of its aviation insurance program and charging premium thereon without
27 first having obtained the Commissioner’s approval of said optional coverage endorsements via a
28 rate application as required by Insurance Code section 1861.01, subdivision (c) and Insurance

1 Code section 1861.05, subdivision (b). Respondent did not seek to correct this omission or cease
2 the issuance of the unfiled, unapproved optional coverage endorsements to policyholders until in
3 or about 2023.

4 6. On or about February 7, 2023, Respondent submitted a proposed rule and form
5 revision (file no. 2023-1308) indicating that starting in or about 2007, Respondent had been
6 issuing to policyholders the aforementioned unfiled, unapproved optional coverage endorsements
7 and charging premium thereon.

8 7. Beginning in and around June 2023, the Department began communicating with
9 Respondent regarding Respondent's offering of and charging the aforementioned unfiled,
10 unapproved rates for optional coverage endorsements to policyholders.

11 8. Based upon these ongoing communications as well as additional information and
12 documents that Respondent has provided to the Department as part of these discussions, the
13 Department is informed and believes and thereupon alleges that Respondent's failure to file the
14 aforementioned optional coverage endorsements and obtain the Commissioner's approval before
15 using them, violates, *inter alia*, Insurance Code section 1861.01, subdivision (c); Insurance Code
16 section 1861.05, subdivisions (a) and (b); and 10 CCR sections 2360.3 and 2360.4.

17 **SPECIFIC ALLEGATIONS**

18 **Allegation No. 1**

19 **Violation of Insurance Code §§ 1861.01, subd. (c) and 1861.05, subd. (b)**

20 9. Insurance Code section 1861.01, subdivision (c) and section 1861.05, subdivision
21 (b) require the Commissioner's prior approval of insurance rates before they are used.

22 10. Respondent charged rates for optional coverage endorsements to policyholders
23 without obtaining the Commissioner's prior approval.

24 11. Respondent's failure to obtain prior approval of rates for optional coverage
25 endorsements on behalf of the member insurers is a violation of Insurance Code sections 1861.01,
26 subdivision (c) and section 1861.05, subdivision (b) and has resulted in excessive, inadequate,
27 and/or unfairly discriminatory rates charged to policyholders in violation of Insurance Code
28 section 1861.05, subdivision (a).

1 THE DEPARTMENT HEREBY FURTHER NOTIFIES RESPONDENT that if
2 Respondent fails to make an adequate or timely response to this Notice, the Department will set a
3 public hearing pursuant to Insurance Code sections 1858.2 and 1858.3.

4 THE DEPARTMENT HEREBY FURTHER NOTIFIES RESPONDENT that, if after a
5 hearing pursuant to Insurance Code section 1858.2, the Commissioner finds that any rate, rating
6 plan, or rating system violates any provision of Chapter 9 of Part 2 of Division 1 of the Insurance
7 Code applicable to it, s/he shall issue an order to the Respondent that specifying in what respects
8 that violation exists and stating when, within a reasonable period of time, the further use of that
9 rate or rating system by Respondent shall be prohibited. The Commissioner may, in addition to
10 that order, direct Respondent to take such other corrective action as s/he may deem necessary and
11 proper.

12 THE DEPARTMENT FURTHER NOTIFIES RESPONDENT that any person who uses
13 any rate, rating plan, or rating system in violation of Chapter 9 of Part 2 of Division 1 of the
14 Insurance Code is liable to the state for a civil penalty not to exceed five thousand dollars
15 (\$5,000) for each act or, if the act or practice was willful, a civil penalty not to exceed ten
16 thousand dollars (\$10,000) for each act. The Commissioner shall have the discretion to establish
17 what constitutes an act. However, when the issuance, amendment, or servicing of a policy or
18 endorsement is inadvertent, all of those acts shall be a single act for the purpose of this section.
19 The penalty imposed by this section shall be imposed by and determined by the Commissioner as
20 provided by Insurance Code section 1858.3, except that no penalty shall be imposed by the
21 Commissioner if a person has used any rate, rating plan, or rating system that has been approved
22 for use by the Commissioner in accordance with the provisions of Chapter 9 of Part 2 of Division
23 1 of the Insurance Code.

24 THE DEPARTMENT FURTHER NOTIFIES RESPONDENT that any person, insurer,
25 organization, group, or association who fails to comply with a final order of the Commissioner
26 under Chapter 9 of Part 2 of Division 1 of the Insurance Code shall be liable to the state in an
27 amount not exceeding fifty thousand dollars (\$50,000), but if the failure is willful, it shall be
28 liable to the State of California in an amount not exceeding two hundred fifty thousand dollars

1 (\$250,000) for the failure. That penalty shall be in addition to any penalty issued under Insurance
2 Code section 1858.07. The Commissioner shall collect the amount so payable and may bring an
3 action in the name of the People of the State of California to enforce collection. These penalties
4 may be in addition to any other penalties provided by law.

5 THE DEPARTMENT FURTHER NOTIFIES RESPONDENT that a willful violation of
6 Chapter 9 of the Insurance Code by any person is a misdemeanor.

7 THE DEPARTMENT FURTHER NOTIFIES RESPONDENT that, in the alternative, if
8 the Commissioner does not find Respondent's acts involving the use of rates, rating plans,
9 and/or rating systems in violation of Chapter 9, Part 2, Division 1 of the Insurance Code to be
10 willful violations of that chapter, the Department will seek civil penalties for each act pursuant
11 to Insurance Code section 1858.07.

12 THE DEPARTMENT FURTHER NOTIFIES RESPONDENT that, in addition to the
13 aforementioned penalties, the Commissioner may pursuant to Insurance Code section 1858.4
14 suspend or revoke, in whole or in part, the license of any joint underwriting organization, rating
15 organization, or the certificate of authority of any insurer with respect to the class or classes of
16 insurance specified in that order that fails to comply within the time limited by that order or any
17 extension thereof which the Commissioner may grant, with an order of the Commissioner
18 lawfully made by him/her pursuant to Insurance Code section 1858.3 and effective pursuant to
19 Insurance Code section 1858.6.

20 THE DEPARTMENT HEREBY FURTHER NOTIFIES RESPONDENT that the
21 Department may amend this Notice to set forth additional noncompliant acts in violation of
22 Chapter 9, Part 2, Division 1 of the Insurance Code and seek additional penalties for each act
23 and/or all appropriate remedial actions, including without limitation any other corrective action as
24 the Commissioner may deem appropriate, pursuant to, *inter alia*, Insurance Code sections
25 1858.07 and 1858.3. The Department may amend this Notice to set forth additional non-willful,
26 noncompliant acts in violation of Chapter 9, Part 2, Division 1 of the Insurance Code.

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Dated: October 31, 2024

CALIFORNIA DEPARTMENT OF
INSURANCE

By: *Daniel Wade*
Daniel Robert Wade

*Attorneys for the California Department of
Insurance*