



**NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA**

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**BEFORE THE COMMISSIONER
OF INSURANCE**

**IN THE MATTER OF THE LICENSURE
OF CAPITAL FINANCIAL &
INSURANCE, LLC
LICENSE NO. 1000014047**

**VOLUNTARY SETTLEMENT
AGREEMENT**

NOW COME, Capital Financial & Insurance, LLC (hereinafter “CF&I” or “Licensee”) and the Agent Services Division of the North Carolina Department of Insurance (hereinafter “Agent Services Division”), and hereby voluntarily and knowingly enter into the following Voluntary Settlement Agreement (hereinafter “this Agreement”).

WHEREAS, the Agent Services Division regulates and licenses insurance producers in North Carolina; and

WHEREAS, CF&I is a North Carolina limited liability company that was issued a resident business entity insurance producer license by the North Carolina Department of Insurance pursuant to N.C. Gen. Stat. § 58-33-31(b); and

WHEREAS, CF&I has designated Peter J. D’Arruda, a North Carolina licensed insurance producer, as the licensed individual responsible for the business entity’s compliance with North Carolina insurance laws and administrative rules and the orders of the North Carolina Insurance Commissioner; and

WHEREAS, CF&I’s North Carolina business entity insurance producer license expired on March 31, 2021 for non-payment of the annual license fee, but was reinstated on July 6, 2021; and

WHEREAS, a targeted examination of CF&I was conducted by the Agent Services Division on July 6, 2021 and October 25-26, 2021; and

WHEREAS, the targeted examination was instigated by a complaint regarding the January 2021 sale, solicitation, and negotiation of a fixed annuity insurance contract to a North Carolina consumer involving CF&I employees Martin D. Hensley and Parker Holland; and

WHEREAS, among other things, the examination identified that Mr. Hensley solicited and negotiated fixed annuities for individual North Carolina consumers during the 49-month period between June 30, 2017 and August 5, 2021 when Mr. Hensley's North Carolina insurance producer's license had lapsed; and

WHEREAS, the examination also found that although Mr. Holland, Mr. D'Arruda, and Mr. Hensley developed the financial/insurance strategies for CF&I's clients, Mr. Hensley presented the clients with the financial plan and substantive benefits, terms, and conditions of the subject insurance contracts and then Mr. Holland and Mr. D'Arruda signed the corresponding insurance applications as the insurance producers; and

WHEREAS, the examination also found that commissions, service fees, or other valuable consideration were paid to Mr. Hensley by or on behalf of CF&I for the sale, solicitation and negotiation of insurance contracts requiring an insurance producer license during the 49-month period that Mr. Hensley did not hold an active North Carolina insurance producer license; and

WHEREAS, N.C. Gen. Stat. § 58-33-26(j) requires that every employee of a licensed business entity insurance producer that is "personally engaged in this State in selling, soliciting, or negotiating policies of insurance shall qualify as an individual licensee[;]" and

WHEREAS, N.C. Gen. Stat. § 58-33-82(a) prohibits an insurance producer, like CF&I, from paying "a commission, service fee, or other valuable consideration to a person for selling, soliciting, or negotiating insurance in this State if that person is required to be licensed under this Article and is not so licensed[;]" and

WHEREAS, among other things, N.C Gen. Stat. § 58-33-46(a)(2) authorizes the North Carolina Insurance Commissioner to suspend, revoke, place on probation, or refuse to issue or renew any license issued under Article 58 of the General Statutes of North Carolina should a licensee violate "any insurance law of this or any other state[;]" and

WHEREAS, CF&I failed to verify that Mr. Hensley qualified as a licensed insurance producer while Mr. Hensley was personally engaged in selling, soliciting, and negotiating insurance contracts for CF&I in violation of N.C. Gen. Stat. § 58-33-26(j), and that CF&I also paid commissions, fees, and other valuable consideration to Mr. Hensley for selling, soliciting, and negotiating insurance at a time when Mr. Hensley was not licensed as a North Carolina insurance producer in violation of N.C. Gen. Stat. § 58-33-82(a); and

WHEREAS, pursuant to N.C. Gen. Stat. § 58-2-70(g), the Agent Services Division,

as an authorized designee of the Commissioner of Insurance, has express authority to negotiate a mutually acceptable agreement with any person or entity regarding the status of their North Carolina insurance license, or as to any civil penalty or restitution; and

WHEREAS, CF&I has agreed to settle, compromise, and resolve the matters referenced in this Agreement on behalf of itself, and the Agent Services Division has agreed not to pursue additional civil ramifications, including penalties, sanctions, remedies, or restitution against CF&I based on the violations identified in the July 6, 2021 and October 25-26, 2021 targeted examination by the Agent Services Division; and

WHEREAS, this Agreement is civil in nature and does not preclude criminal prosecution that may result from investigations, if any, conducted by the North Carolina Department of Insurance's Criminal Investigation Division for violation of criminal laws; and

WHEREAS, the parties to this Agreement mutually wish to resolve this matter by consent before the Agent Services Division initiates an administrative hearing and have reached a mutually agreeable resolution of this matter as set out in this Agreement.

NOW, THEREFORE, in exchange for the consideration and promises and agreements set out herein, CF&I and the Agent Service Division hereby agree to the following:

1. Upon signing this Agreement, CF&I shall pay a civil penalty of two thousand five hundred dollars (**\$2,500.00**) to the Agent Services Division. The form of payment shall be by certified check, cashier's check, or money order. The check or money order for the payment of this civil penalty shall be payable to the "North Carolina Department of Insurance."
2. Together with the civil penalty payment, CF&I shall return a signed copy of this Agreement by certified mail, return receipt requested, addressed to "NCDOI Agent Services Division (Attention: Sherri Bumgarner), 1204 Mail Service Center, Raleigh, N.C. 27699-1204." **The civil penalty and the signed Agreement must be received by the Department no later than Tuesday, April 11, 2023.** The civil penalty shall be subject to disbursement in accordance with the provisions of Article IX, Section 7 of the North Carolina Constitution for the benefit of public schools.
3. This Agreement does not in any way affect the North Carolina Department of Insurance's or the Agent Service Division's disciplinary power in any future examination of CF&I, or in any other complaints involving CF&I, Martin D. Hensley, Parker Holland, or Peter J. D'Arruda.

4. CF&I enters into this Agreement, on behalf of itself, freely and voluntarily and with the knowledge of its right to have an administrative hearing on this matter. CF&I has consulted with its attorneys prior to entering into this Agreement.
5. The parties to this Agreement agree that this Agreement shall have the full force and effect of an Order of the Commissioner. CF&I understands that N.C.G.S. § 58-33-46(a)(2) provides that an insurance producer's license may be revoked for violating an Order of the Commissioner.
6. This Agreement, when finalized, will be a public record and will **not** be held confidential by the North Carolina Department of Insurance or the Agent Services Division. Following the execution of this Agreement, all licenses issued by the North Carolina Department of Insurance to CF&I shall reflect that Regulatory Action has been taken against it. The North Carolina Department of Insurance is free to disclose the contents of this Agreement with third parties upon request or pursuant to any law or policy providing for such disclosure. The North Carolina Department of Insurance routinely provides copies of voluntary settlement agreements to all companies that have appointed the Licensee.
7. The parties have read and understand this Agreement and agree to abide by the terms and conditions stated herein.
8. This Agreement between CF&I and the Agent Services Division shall become effective when signed by CF&I's authorized corporate officer and by Angela Hatchell, Deputy Commissioner of the Agent Services Division.
9. Be aware that if a state or federal regulator other than the North Carolina Department of Insurance has issued an occupational or professional license to you, that regulator may require you to report this administrative action to it. The North Carolina Department of Insurance cannot give you legal advice as to the specific reporting requirements of other state or federal regulators.

[SIGNATURE PAGE FOLLOWS]

CAPITAL FINANCIAL & INSURANCE, LLC.
NPN# 16180506 / N.C. License No. 1000014047

By:

[Redacted Signature]
eter J. D'Arruda
Member-Manager & President

Date:

3-17-2023

**AGENT SERVICES DIVISION OF THE
NORTH CAROLINA DEPARTMENT OF INSURANCE**

By:

[Redacted Signature]
Angela Hatchell
Deputy Commissioner of the Agent Services Division

Date:

4/10/2023