

**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
COMMONWEALTH UNDERWRITERS LTD
NPN: 3005990
LICENSE NO. 100043254**

**VOLUNTARY SETTLEMENT
AGREEMENT**

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NOW COME, COMMONWEALTH UNDERWRITERS LTD (hereinafter "COMMONWEALTH") and the N.C. Department of Insurance Agent Services Division (hereinafter "Agent Services Division"), and hereby voluntarily and knowingly enter into the following Voluntary Settlement Agreement (hereinafter "this Agreement").

WHEREAS, the Department has the authority and responsibility for enforcement of the insurance laws of this State, and for regulating and licensing insurance agents and agencies; and

WHEREAS, COMMONWEALTH currently holds a non-resident corporate business entity license issued by the Department and is located at 2121 W. Laburnum Ave., Ste 105C, Richmond, VA 23227;an

WHEREAS, COMMONWEALTH was established in 1994 and is owned by Barry Scott and operates as a wholesale insurance broker for both Surplus Lines and Admitted Specialty Insurance Companies; and

WHEREAS, investigators conducted a compliance check to verify that all agency employees were appropriately licensed, to audit the agency's financials and to randomly review files to verify proper underwriting of COMMONWEALTH during the period May 09 through May 25, 2023; due to violations observed during the compliance check, the investigation was modified to a target examination; and

WHEREAS, investigators had conducted an earlier review during the period March 08 through April 12, 2021 wherein COMMONWEALTH was fined in the amount of \$15,000.00 for allowing unlicensed and non-appointed employees to procure insurance; and

WHEREAS, investigators obtained policy listings of all new business written between January 01, 2022 and March 01, 2023 and randomly selected one hundred (100) policies to review. Of those files, thirty-seven (37) admitted insurer policy files were selected for review. In

every file reviewed, instances of agency employees procuring insurance coverage without being duly licensed and appointed by the insurance company were found. Investigators reviewed sixty-three (63) non-admitted insurer (surplus lines) policy files, of which thirty (30) files indicated that agency employees had procured coverage without being duly licensed. In addition, investigators observed that throughout the files, there were many unlicensed outsourced employees handling policy files who were not properly licensed. During the previous review investigators observed one processor who was acting as an agent without being duly licensed and noted that he was continuing to do so during the current review period. Additionally, investigators observed several agency email addresses for sections of the agency handling activities requiring licensure, and determined that some agency employees in that area were conducting duties that were restricted to licensed agents,

WHEREAS, N.C. Gen. Stat. § 58-21-65(a) provides:

(a) For insureds whose home state is this State, no agent or broker licensed by the Commissioner shall directly procure any contract of surplus lines insurance with any non-admitted domestic surplus lines insurer or non-admitted insurer, unless he possesses a current surplus lines insurance license issued by the Commissioner; and

WHEREAS, N.C. Gen. Stat. § 58-33-26(a) & (b) provide:

(a) No person shall act as or hold himself or herself out to be an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser unless duly licensed.

(b) No agent, broker, or limited representative shall make application for, procure, negotiate for, or place for others, any policies for any kinds of insurance as to which that person is not then qualified and duly licensed; and

WHEREAS, N.C. Gen. Stat. § 58-33-40(a) provides that no person shall solicit, negotiate, or otherwise act as an agent for an insurer unless appointed by such insurer; and

WHEREAS, COMMONWEALTH, by allowing the procuring and negotiating of insurance coverages through admitted and non-admitted insurers by employees who were not properly licensed or appointed, was in violation of the provisions of N.C. Gen. Stats. §§ 58-33-26(a) & (b), 58-21-of 65(a) and 58-33-40(a); and

WHEREAS, N. C. Gen. Stat. § 58-33-46(a)(2) provides that the Commissioner may place on probation, suspend, revoke, or refuse to issue or renew any license issued under Article 58 of the General Statutes of North Carolina for violating any insurance law of this or any other state, violating any administrative rule, subpoena, or order of the Commissioner or of another state's regulator; and

WHEREAS, N. C. Gen. Stat. § 58-2-70 provides that whenever the Commissioner has reason to believe that any person has violated any law that would subject the license or certification of that person to suspension or revocation, the Commissioner is authorized, in lieu of a hearing, to negotiate a mutually acceptable agreement as to the status of the person's license or certificate or to any civil penalty or restitution; and

WHEREAS, COMMONWEALTH has filed a corrective action plan with the Agent Services Division which sets forth the actions already taken and/or to be taken to prevent future occurrences of the violations set forth herein; and

WHEREAS, COMMONWEALTH has agreed to settle, compromise, and resolve the matters referenced in this Agreement and the Agent Services Division has agreed not to pursue additional civil ramifications, including penalties, sanctions, remedies, or restitution based on these matters against COMMONWEALTH; and

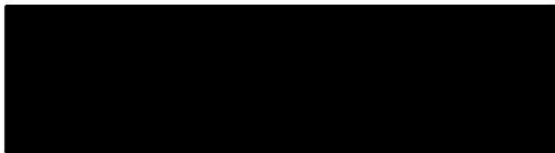
WHEREAS, this Agreement is civil in nature and does not preclude criminal prosecution that may result from investigations by the Department's Criminal Investigation Division for violations of criminal laws; and

NOW, THEREFORE, in exchange for the consideration and promises and agreements set out herein, COMMONWEALTH and the Department hereby agree to the following:

1. Immediately upon the signing of this Agreement, COMMONWEALTH shall pay a civil penalty of **\$3,350.00** to the Department. 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." COMMONWEALTH shall remit the civil penalty by certified mail, return receipt requested, to the Agent Services Division along with a copy of this signed Agreement. The civil penalty and the signed Agreement must be received by the Department no later than **July 11, 2024**. 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.
2. This Agreement does not in any way affect the Agent Services Division's disciplinary power in any future examination of COMMONWEALTH or in any complaints involving COMMONWEALTH.
3. COMMONWEALTH enters into this Agreement freely and voluntarily and with the knowledge of its right to have an administrative hearing on this matter and may consult with an attorney prior to entering into this Agreement.
4. The parties to this Agreement agree that this Agreement shall have the full force and effect of an Order of the Commissioner. COMMONWEALTH understands that N.C.G.S. § 58-33-46(a)(2) provides that a corporate license may be revoked for violating an Order of the Commissioner.
5. This Agreement, when finalized, will be a public record and will **not** be held confidential by the Department. Following the execution of this Agreement, all licenses issued by the Department to COMMONWEALTH shall reflect that Regulatory Action has been taken against it. The Department 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.

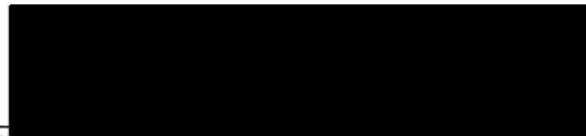
6. The parties have read and understand this Agreement and agree to abide by the terms and conditions stated herein.
7. Be aware that if a state or federal regulator other than the N. C. Department of Insurance has issued an occupational or professional license to your business entity, that regulator may require you to report this administrative action to it. The N.C. Department of Insurance cannot give you legal advice as to the specific reporting requirements of other state or federal regulators.

Commonwealth Underwriters LTD



By: Barry Scott
President

**N.C. Department of Insurance
Agent Services Division**



By: Joe Wall
Deputy Commissioner

Date: 06-15-2024

Date: 6/25/2024