

NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA

RECEIVED IN AGENT SERVICES
A.S.-N.C.D.O.I.

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STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE COMMISSIONER
OF INSURANCE

IN THE MATTER OF THE LICENSURE
OF DANIEL CREECH
NPN: 6607760

VOLUNTARY SETTLEMENT
AGREEMENT

NOW COME, Daniel Creech (hereinafter "Mr. Creech) and the North Carolina 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 Agent Services Division has the authority and responsibility for enforcement of the insurance laws of this State, and for regulating and licensing agencies, insurance agents, brokers, limited representatives, adjusters, and motor vehicle appraisers; and

WHEREAS, Mr. Creech holds a resident producer license with authority for Life, Accident & Health or Sickness, Property and Casualty lines of insurance; and

WHEREAS, Agent Services Division (hereinafter "ASD") conducted a review of the Vic Fisher Agency on July 30, August 15 and 23, and September 13, 2024 to verify that all agency employees are appropriately licensed, to audit the agency's financials, and to randomly review files to verify proper underwriting. The review was initiated by a complaint made to the Department against the owner, Daniel Creech, and his wife Sharon, both of whom were licensed agents. The allegations made were that both were adding themselves as drivers to business policies for which they had no personal association or relationship other than writing the coverage; and

WHEREAS, ASD investigators contacted the issuing insurer and requested information regarding as to why such action may have been taken by Mr. Creech, as well as information regarding any non-sufficient fund issues, underwriting problems or any other issues the insurer experienced with the agency. The response made by the insurer indicated that such action may have been taken to bypass automatic underwriting referral because of the driver/vehicle ratio listed on the policies. Similar occurrences were found on eight (8) additional commercial policies. Other issues included the misclassification of vehicles of seven (7) commercial autos on policies; and

NCGS § 58-33-46. Suspension, probation, revocation, or nonrenewal of licenses.

(a) The Commissioner may place on probation, suspend, revoke, or refuse to renew any license issued under this Article, in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, for any one or more of the following causes:

(2) 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 insurance regulator, or violating any rule of the FINRA.

- (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
- (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere.

NCGS § 58-33-105. False statements in applications for insurance.

If any insurance producer, examining physician, applicant, or other person shall knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for insurance, or shall make any such statement for the purpose of obtaining any fee, commission, money or benefit from any company engaged in the business of insurance in this State, he shall be guilty of a Class 1 misdemeanor. This section shall also apply to contracts and certificates issued under Articles 65 through 67 of this Chapter; and

NCGS § 58-3-149. Certificates of insurance.

(b) A certificate of insurance is not a policy of insurance and does not amend, extend, or alter the coverage afforded by the policy to which the certificate of insurance makes reference. A certificate of insurance shall not confer to a certificate of insurance holder new or additional rights beyond what the referenced policy of insurance expressly provides.

(c) It is unlawful for any person to knowingly prepare, issue, request, or require a certificate of insurance that meets any of the following criteria:

(1) Has not been filed with and approved by the Commissioner.

(2) Contains any false or misleading information concerning the policy of insurance to which the certificate of insurance makes reference.

(3) Purports to alter, amend, or extend the coverage provided by the policy of insurance to which the certificate of insurance makes reference.

(4) Includes information not contained in the underlying insurance policy.

WHEREAS, Mr. Creech falsely added himself as a driver on nine (9) business auto policies, and his wife on two. According to the insurer, such may have been done to bypass its underwriting rules regarding driver/vehicle ratio, which would have triggered an automatic underwriting referral, violations of NCGS 58-33-105 and 58-33-46(a)(5) and actions representative of 58-33-46(a)(8). One of Mr. Creech's employees prepared and faxed an FS-1 to the Department of Motor Vehicles with a false effective date causing the Department of Motor Vehicles to believe a new policy was in force when the prior policy had cancelled three (3) days before the new policy was in effect, a violation of NCGS 58-3-149(b); and

NCGS § 58-36-30. Deviations.

(a) Except as permitted by G.S. 58-36-100 for workers' compensation loss costs filings, insurer and no officer, agent, or representative of an insurer shall knowingly issue or deliver or knowingly permit the issuance or delivery of any policy of insurance in this State that does not conform to the rates, rating plans, classifications, schedules, rules and standards made and filed by the Bureau. An insurer may deviate from the rates promulgated by the Bureau if the insurer has filed the proposed deviation with the Bureau and the Commissioner, if the proposed deviation is based on sound actuarial principles, and if the proposed deviation is approved by the Commissioner. Amendments to deviations are subject to the same requirements as initial filings.

An insurer may terminate a deviation only if the deviation has been in effect for a period of six months before the effective date of the termination and the insurer notifies the Commissioner of the termination no later than 15 days before the effective date of the termination; and

WHEREAS, ASD investigators found seven (7) policies wherein business vehicles were listed as personal and farm use, thereby not conforming to the rates and classifications for such vehicles in violation of the provisions of NCGS § 58-36-30.

NCGS 58-33-85. Rebates and charges in excess of premium prohibited; exceptions.

(a) No insurer, insurance producer, or limited representative shall knowingly charge, demand or receive a premium for any policy of insurance except in accordance with the applicable filing approved by the Commissioner. No insurer, insurance producer, or limited representative shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance. No insured named in a policy of insurance, nor any employee of such insured, shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement or reduction of premium, or any special favor or advantage or valuable consideration or inducement. Nothing herein contained shall be construed as prohibiting (i) the payment of commissions or other compensation to duly licensed insurance producers and limited representatives, (ii) any participating insurer from distributing to its policyholders' dividends, savings or the unused or unabsorbed portion of premiums and premium deposits, or (iii) the trade practices permitted by G.S. 58-63-16. As used in this section the word "insurance" includes suretyship, and the word "policy" includes bond.

WHEREAS, Mr. Creech admitted to paying the monthly premium for one of his insureds from the policy inception date of February 27, 2023 through August 27, 2024 when he changed the method of payment, a violation of NCGS 58-33-85.

NCGS § 58-2-185. Record of business kept by companies and insurance producers; Commissioner may inspect.

All companies, insurance producers, or their agents doing any kind of insurance business in this State must make and keep a full and correct record of the business done by them, showing the number, date, term, amount insured, premiums, and the persons to whom issued, of every policy or certificate or renewal. Information from these records must be furnished to the Commissioner on demand, and the original books of records shall be open to the inspection of the Commissioner when demanded.

NCGS § 58-2-195. Commissioner may require records, reports, etc., for agencies, insurance producers, and others.

(a) The Commissioner is empowered to make and promulgate reasonable rules and regulations governing the recording and reporting of insurance business transactions by insurance agencies,

insurance producers, and producers of record, any of which agencies, insurance producers, or producers of record are licensed in this State or are transacting insurance business in this State to the end that such records and reports will accurately and separately reflect the insurance business transactions of such agency, insurance producer, or producer of record in this State. Information from records required to be kept pursuant to the provisions of this section must be furnished to the Commissioner on demand and the original records required to be kept pursuant to the provisions of this section shall be open to the inspection for the Commissioner or any other authorized employee described in G.S. 58-2-25 when demanded.

(b) Every insurance agency transacting insurance business in this State shall at all times have appointed some person employed or associated with such agency who shall have the responsibility of seeing that such records and reports as are required pursuant to the provisions of this section are kept and maintained.

NCGS § 58-2-200. Books and papers required to be exhibited.

It is the duty of any person having in his possession or control any books, accounts, or papers of any company licensed under Articles 1 through 64 of this Chapter, to exhibit the same to the Commissioner or to any deputy, actuary, accountant, or persons acting with or for the Commissioner. Any person who shall refuse, on demand, to exhibit the books, accounts, or papers, as above provided, or who shall knowingly or willfully make any false statement in regard to the same, shall be subject to suspension or revocation of his license under Articles 1 through 64 of this Chapter; and shall be deemed guilty of a Class 1 misdemeanor.

11 NCAC 19 .0102 MAINTENANCE OF RECORDS

(a) Every insurer licensed to do business in this State shall maintain for at least five years all records, books, documents, and other business records that are required by this Section and by Chapter 58 of the North Carolina General Statutes.

(b) Every agency, agent, broker, or producer of record shall maintain a file for each policy sold. The file shall contain all work papers and written communications in his or her possession pertaining to that policy. These records shall be retained for at least five years after the final disposition or, for domestic companies, until the Commissioner has adopted a final report of a general examination that contains a review of these records for that calendar year, whichever is later.

11 NCAC 19 .0104 POLICY RECORDS

Each insurer or its agents shall maintain or cause to be maintained a record of each policy that specifies the policy period, basis for rating, and if terminated, documentation supporting policy termination by the insurer or policyholder, and accounting records indicating return premium amounts. These records shall be retained for at least five years after the termination of the policy or, for domestic companies, until the Commissioner has adopted a final report of a general examination that contains a review of these records for that calendar year, whichever is later.

WHEREAS, Mr. Creech was not able to produce original receipt copies issued by the agency or deposit records when requested by ASD investigators who could not trace premium funds because Mr. Creech failed to retain deposit tickets and all premium receipts, violations of NCGS 58-2-185, 58-2-195(a), 58-2-200 and (b) 11NCAC 19.0102, 11 NCAC 19.0104.

11 NCAC 04 .0429 COMMINGLING

The accounting records maintained by agents, brokers, and limited representatives shall be separate and apart from any other business records and demonstrate at all times that collected funds due to insurers and return premiums due to policyholders are available at all times.

WHEREAS, Mr. Creech deposited a client's premium payment of \$907.00 in the form of a money order into his personal account although the premium funds were swept from his premium account, a violation of 11 NCAC 04.0429; and

WHEREAS, North Carolina General Statute § 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, Mr. Creech has agreed to settle, compromise, and resolve the matters referenced in this Agreement on behalf of himself, and the ASD has agreed not to pursue additional civil ramifications, including penalties, sanctions, remedies, or restitution based on these matters against Mr. Creech; and

WHEREAS, the parties to this Agreement mutually wish to resolve this matter by consent before the Department 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, Mr. Creech and the Department hereby agree to the following:

1. Immediately upon the signing of this Agreement, Mr. Creech shall pay a civil penalty of **\$5,000.00** 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." Mr. Creech 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 no later than **June 30, 2025**. 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 Department's disciplinary power in any future examination of Mr. Creech or in any other complaints involving Mr. Creech.
3. Mr. Creech enters into this Agreement, on behalf of himself, freely and voluntarily and with the knowledge of his right to have an administrative hearing on this matter. Mr. Creech understands he 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. Mr. Creech understands that N.C.G.S. § 58-33-46(a)(2) provides that a producer's 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 Mr. Creech shall reflect that Regulatory Action has been taken against him. 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. The Department, upon request, routinely will provide a copy of the voluntary settlement agreement to all companies that have appointed the licensee.
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 you, 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.

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

By: Daniel Creech
License No. 6607760

By: Joe Wall
Deputy Commissioner

Date: 6/27/2025

Date: 7/2/2025