

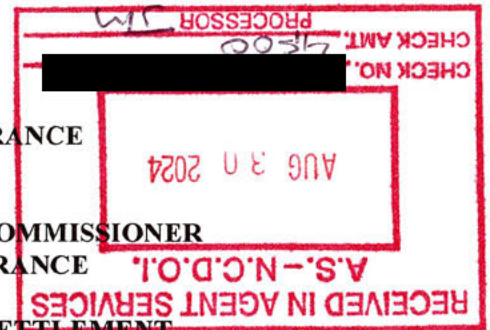
**NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA**

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**BEFORE THE COMMISSIONER
OF INSURANCE**

**IN THE MATTER OF
THE LICENSURE OF
ELEMENT22 INSURANCE SERVICES, INC.
NPN: 15758919**

**VOLUNTARY SETTLEMENT
AGREEMENT**



NOW COME, ELEMENT22 INSURANCE SERVICES, INC. (hereinafter "ELEMENT22") and the N.C. Department of Insurance Agent Services Division (hereinafter "ASD"), and hereby voluntarily and knowingly enter into the following Voluntary Settlement Agreement (hereinafter "this Agreement"); and

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, ELEMENT22 currently holds a non-resident corporate business entity license issued by the Department; and

WHEREAS, ELEMENT22 is a wholesale brokerage based in Clearwater, Florida specializing in Property and Casualty insurance coverage and offering nationwide service to commercial agents in all fifty states. ELEMENT22 was notified on September 27, 2023 that ASD investigators would be conducting a routine agency review of the agency's North Carolina policy files. A list was requested by ASD and was provided to ASD investigators of policies written from August 01, 2020 to August 01, 2023. The investigators noted that the agency only employed two (2) agents with North Carolina non-resident licenses: and

WHEREAS, one hundred (100) policies were selected for review. Thirty-four (34) of the selected policies were written with admitted insurers and sixty-four (64) of the selected policies were written through non-admitted insurers. ASD investigators noted that every policy reviewed indicated that unlicensed employees were procuring insurance coverage without the proper North Carolina licenses and/or insurance company appointments; and

WHEREAS, ASD investigators observed in the files examined that ELEMENT22 had charged service fees on admitted policies but not on a consistent basis. In addition, policies files did not contain signed consent forms whenever fees were charged; and

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, N.C. Gen. Stat. § 58-33-85 (b) provides that no insurer, insurance producer, or limited representative shall knowingly charge to or demand or receive from an applicant for insurance any money or other consideration in return for the processing of applications or other forms or for the rendering of services associated with a contract of insurance, which money or other consideration is in addition to the premium for such contract, unless the applicant consents in writing before any services are rendered. This subsection does not apply to the charging or collection of any fees otherwise provided for by law. (1987,

WHEREAS, N.C. Gen. Stat. § 58-33-80 provides that no insurance producer or representative of any company doing the business of insurance as defined in G.S. 58-7-15 shall make any discrimination in favor of any person; and

WHEREAS, ELEMENT22, 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, ELEMENT22 by not obtaining consent of insureds in situations where fees were charged in addition to the premium, not obtaining signed consent forms and applying fees in excess of the appropriate premium in an inconsistent manner, ELEMENT22 was in violation of the provisions of N.C. Gen. Stats. § 58-33-85 (b) and 58-33-80; 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, ELEMENT22 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, ELEMENT22 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 ELEMENT22; and

NOW, THEREFORE, in exchange for the consideration and promises and agreements set out herein, ELEMENT22 and the Department hereby agree to the following:

1. Immediately upon the signing of this Agreement, ELEMENT22 shall pay a civil penalty of **\$4,500.00** 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." ELEMENT22 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 **September 09, 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 ELEMENT22 or in any complaints involving ELEMENT22.
3. ELEMENT22 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. ELEMENT22 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 ELEMENT22 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.

ELEMENT22 Insurance Services, Inc.
NPN: 15758919



By: **Matthew Hays**
President

Date: 8/20/2024

N.C. Department of Insurance
Agent Services Division



By: **Joe Wall**
Deputy Commissioner

Date: 8/30/2024