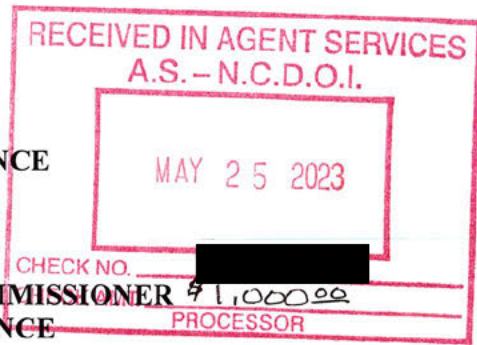


**NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA**



**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**BEFORE THE COMMISSIONER
OF INSURANCE**

**IN THE MATTER OF
THE LICENSURE OF
DAVID B. HOLLAR
LICENSE NO. 0008966640**

**VOLUNTARY SETTLEMENT
AGREEMENT**

NOW COME, David B. Hollar (hereinafter "Mr. Hollar") and the Agent Services Division of the N.C. 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 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, Mr. Hollar currently holds a resident producer's license with authority for Property, Casualty, Life, and Accident & Health or Sickness lines of insurance and a Medicare Supplement Long-Term Care Insurance license issued by the Department; and

WHEREAS, Agent Services Division investigators conducted a routine audit of the Hollar Insurance Group, Inc., owned and managed by Mr. Hollar, on October 3-4, 2022; the audit was modified to a target examination due to violations observed; and

WHEREAS, N.C. Gen. Stat. § 58-3-150 (f) provides: 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; and

WHEREAS, the investigators observed that the agency issued one (1) certificate of insurance with the incorrect insurer listed and one (1) certificate with the incorrect insurer and term of coverage, potential violations of N.C. Gen. Stat. § 58-3-150 (f); Mr. Hollar advised the investigators that the errors were a result his failure to verify the accuracy of information pre-filled from his agency management system: and

WHEREAS, N.C. Gen. Stat. § 58-33-46(a)(4) provides that the Commissioner may place on probation, suspend, revoke, or refuse to renew any license issued under Article 33 of Chapter 58 of the General Statutes of NC, for improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business; and

WHEREAS, 11 NCAC 04.0429 (Commingling) provides: The accounting records maintained by agents, brokers, and limited representatives shall be separate and apart from any other business records demonstrate at all times that the collected funds due to insurers and return premiums due to policyholders are available at all times; and

WHEREAS, (1) The agency has a premium account and an operating account. In addition, Mr. Hollar has a personal checking account and two (2) child's saving accounts. Mr. Hollar does not utilize an automatic sweep of the premium account and instead elected to process direct payments utilizing a debit card assigned to the premium account.

(2) Investigators observed numerous transfers from the premium account to the child's savings and Mr. Hollar's checking account, and from the child's and Mr. Hollar's accounts to the premium account. Investigators observed twenty-seven (27) personal expenditures totaling \$1,270.44 were paid from the premium account. In addition, between February 22, 2022 to May 05, 2022 charges for fast food, grocery, gas, online merchants, and pharmacy were noted. Mr. Hollar explained that such purchases were made during the time he misplaced the debit card assigned to his personal checking account.

(3) Investigators observed \$9,523.47 transferred from the premium account to Mr. Hollar's personal checking account and a total of \$8,604.25 from his personal account to the premium account. Also observed was that \$85.16 was transferred from the premium account to the child's savings account and \$362.86 transferred from the child's account to the premium account.

WHEREAS, investigators observed five (5) negative balances and \$72.00 in overdraft fees in the premium account. The negative balances occurred in March 2021, June 2022, and July 2022 and likely was due to failure to reconcile the premium account and a lack of cushion to cover non-premium items paid from the account. It appears that premium was not available when the insurer attempted to draft the account on June 1, 2022, indicating collected funds were not available to the carriers at all times. Funds for a check written to an employee for commissions were not available when presented for payment on June 23, 2022 (the bank honored payment and charged an overdraft fee); and

WHEREAS, it appears that Mr. Hollar is in violation of N.C. Gen. Stat § 58-33-46(a)(4) and 11 NCAC 04.0429; and

WHEREAS, N.C. Gen. Stat. § 58-2-185 provides: All companies, agents, or brokers 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; and

WHEREAS, N.C. Gen. Stat. § 58-2-195(b) provides: 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; and

WHEREAS, 11 NCAC 19 .0102 MAINTENANCE OF RECORDS provides; (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; and

WHEREAS, 11 NCAC 19 .0104 POLICY RECORDS provides: 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, investigators reviewed fourteen (14) transactions documenting receipt date, deposit date, and the date money was remitted to the insurer, and were unable to complete two of the transactions. It appears that Mr. Hollar did not retain all records needed to trace premium as he, or the investigators, could not trace the random sample of premiums selected. The random sampling revealed missing deposits, a payment uploaded to the insurer, which was less than the original payment, and five (5) occasions on which premium payments were late being deposited and remitted to the insurer. Inability to trace premiums for specific insureds indicate that proper records were not maintained and appear to be violations of N.C. Gen. Stats. § 58-2-185, 58-2-195(b), 11 NCAC 19 .0102, and 11 NCAC 19 .0104; and

WHEREAS, 11 NCAC 04.0121 provides that all premium payment receipts issued by an agent, broker, or limited representative, shall be dated, and contain the printed or stamped name and address of the agency or agent, broker, or limited representative, and the name of the insurer. Receipts shall be signed by the person accepting payment; and

WHEREAS, the investigators observed missing or partial signatures on the receipts, and the agency name and address were not shown on the manually written receipts, a violation of 11 NCAC 04.0121; and

WHEREAS, N.C. Gen. Stat. § 58-33-85. Rebates and charges in excess of premium prohibited. (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 the payment of commissions or other compensation to duly licensed insurance producers and limited representatives, nor as prohibiting any participating insurer from distributing to its policyholders, dividends, savings or the unused or unabsorbed portion of premiums and premium deposits. As used in this section the word "insurance" includes suretyship and the word "policy" includes bond; and

WHEREAS, N.C. Gen. Stat. § 58-63-15(8)(a) Rebates provides: Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

WHEREAS, Department investigators observed a check written to Melissa Stokes for \$236.00 or the initial payment or the purchase of a life insurance policy. Mr. Hollar advised that he fronted the premium to the client because of an error on his part. Mr. Hollar indicate that he intended to issue the policy with a cash on delivery option, but it was issued with a down payment date which conflicted with the due date for her mortgage payment leaving her no funds to pay for the down payment for the life insurance policy. Mr. Hollar advised that he does not front premium as an agency practice. Fronting the premium for Ms. Stokes appears to be violations of N.C. Gen. Stats. § 58-33-85 and 58-63-15(a); and

WHEREAS, the agency filed a corrective action plan with the Agent Services Division on February 7, 2023 setting forth actions taken and/or to be taken to prevent future occurrences of the violations set forth herein; and

WHEREAS, N.C. Gen. Stat. § 58-33-46(a)(8) provides that the Commissioner may place on probation, suspend, revoke, or refuse to renew any license issued under Article 33 of Chapter 58 of the General Statutes of NC, among other things, for demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere; 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, Mr. Hollar has agreed to settle, compromise, and resolve the matters referenced in this Agreement on behalf of himself, and the Agent Services Division has agreed not to pursue additional civil ramifications, including penalties, sanctions, remedies, or restitution based on these matters against Mr. Hollar; and

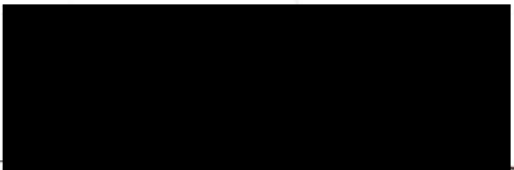
WHEREAS, the parties to this Agreement mutually wish to resolve this matter by consent before the Department initiates an administrative hearing and have reached a mutually agreeable resolution of this matter as set out in this Agreement.


NOW, THEREFORE, in exchange for the consideration and promises and agreements set out herein, Mr. Hollar and the Agent Services Division hereby agree to the following:

1. Immediately upon the signing of this Agreement, Mr. Hollar shall pay a civil penalty of **\$1,000.00** 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**." Mr. Hollar 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 Agent Services Division no later than **May 25, 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.

2. This Agreement does not in any way affect the Agent Services Division's disciplinary power in any future examination of Mr. Hollar, or in any complaints involving Mr. Hollar.
3. Mr. Hollar 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. Hollar 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. Hollar 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 Agent Services Division. Following the execution of this Agreement, all licenses issued by the Agent Services Division to Mr. Hollar 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 Agent Services Division, upon request, routinely provides a copy of the voluntary settlement agreement to all companies that have licensed the producer.
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 Agent Services Division has issued an occupational or professional license to you, that regulator may require you to report this administrative action to it. The Agent Services Division 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: David B. Hollar
License No. 0008966640


By: Angela Hatchell
Deputy Commissioner

Date: 5-18-2023

Date: 5/25/2023