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**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
MITCHELL INSURANCE SERVICES, LLC
LICENSE NO. 14139109 and
LACY MITCHELL, Owner, and Producer
LICENSE NO. 6575238**

**VOLUNTARY SETTLEMENT
AGREEMENT**

NOW COME, Mitchell Insurance Services, LLC (Mitchell Agency) and Lacy Mitchell (Mr. Mitchell) 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, Mitchell Insurance Services, LLC currently holds a business entity license and Mr. Mitchell currently holds a Resident Producer's license with authority for Life, Accident & Health or Sickness, Property and Casualty lines of insurance and a Medicare Supplement Long-Term Care Insurance license issued by the Agent Services Division; and

WHEREAS, Agent Services Division investigators conducted a target examination of the Mitchell Agency in Charlotte, N.C., owned and managed by Mr. Mitchell, on January 2 and 27, 2023, and February 24, 2023; the audit was initiated by a complaint made against the Mitchell Agency regarding rate evasion and how vehicles were being registered in North Carolina; and

WHEREAS N.C. Gen. Stats. §§ 58-2-164(c), (c1), (c2) and (f) Rate evasion fraud; prevention programs provide:

(c) The insurer and its agent shall also take reasonable steps to verify that the information provided by an applicant regarding the applicant's address and the place the motor vehicle is garaged is correct. The insurer may take its own reasonable steps to verify residency or eligible risk status or may rely upon the agent verification of residency or eligible risk status to meet the insurer's verification obligations under this section. The agent shall retain copies of any items obtained under this section as required under the record retention rules adopted by the Commissioner and in accordance with G.S. 58-2-185. The insurer and its agent may satisfy the requirements of this section by, within 25 days of coverage binding, obtaining from the applicant reliable proof of North Carolina residency and the applicant's status as an eligible risk.

(c1) To the extent relevant to a particular criterion for eligible risk status and for the purpose of obtaining nonfleet private passenger motor vehicle insurance, reliable proof of North Carolina residency or eligible risk status includes one or more of the following:

- (1) Repealed by Session Laws 2016-78, s. 3.2(a), effective December 1, 2016.
- (2) A utility bill in the name of the applicant showing the applicant's current North Carolina address, including, but not limited to, a utility bill accessed electronically by the applicant.
- (3) Repealed by Session Laws 2016-78, s. 3.2(a), effective December 1, 2016.

- (4) A receipt for personal property taxes paid by the applicant within the preceding 12-month period and showing the applicant's current North Carolina address, including, but not limited to, proof of personal property taxes paid accessed electronically by the applicant.
 - (5) A receipt for real property taxes paid by the applicant to a North Carolina locality within the preceding 12-month period and showing the applicant's current North Carolina address, including, but not limited to, proof of real property taxes paid accessed electronically by the applicant.
 - (6) Repealed by Session Laws 2016-78, s. 3.2(a), effective December 1, 2016.
 - (7) A valid unexpired North Carolina driver's license issued to the applicant and showing the applicant's current North Carolina address.
 - (8), (9) Repealed by Session Laws 2015-294, s. 13, effective January 1, 2016, and applicable to insurance policies entered into on or after that date.
 - (10) A valid North Carolina vehicle registration issued to the applicant and showing the applicant's current North Carolina address.
 - (11) A valid military ID.
 - (12) A valid student ID of the applicant for a North Carolina school or university.
 - (13) A federal Income Tax Return filed by the applicant for the most recent prior filing period showing the applicant's name and current North Carolina address.
 - (14) A homeowner's or renter's declarations page showing the applicant's current North Carolina address.
- (c2) To the extent relevant to a particular criterion for eligible risk status and for the purpose of obtaining other than nonfleet private passenger motor vehicle insurance, reliable proof of North Carolina residency or eligible risk status includes two or more of the following:
- (1) A utility bill in the name of the applicant showing a North Carolina address for the principal place of business of the applicant, including, but not limited to, a utility bill accessed electronically by the applicant.
 - (2) A receipt for real property taxes paid by the applicant to a North Carolina locality within the preceding 12-month period and showing the applicant's current North Carolina address.
 - (3) A valid North Carolina vehicle registration issued to the applicant and showing the applicant's current North Carolina address.
 - (4) A federal Income Tax Return filed by the applicant for the most recent prior filing period showing the applicant's name and current North Carolina address.
 - (5) The valid North Carolina driver's license of an owner of an applicant that is a corporation or an LLC, provided that the person holds at least twenty (20%) percent ownership interest in the applicant corporation or LLC.
 - (6) If the principal place of business of a corporation or LLC is the primary residence of the sole owner, any of the documents identified in subdivisions (1) through (5) of this subsection, whether in the name of the corporation or LLC or in the name of the sole owner. For purposes of this subsection, "sole owner" shall mean an individual or a husband and wife.
- (f) Every insurer shall maintain safeguards within its auto insurance business at the point of sale, renewal, and claim to identify misrepresentations by applicants regarding their addresses, their principal places of business, and the places their motor vehicles are garaged. Identified misrepresentations are subject to the requirements of Article 2 of this Chapter; and

WHEREAS, Department investigators observed that the Mitchell Agency failed to obtain proof that its policyholders resided in North Carolina and qualified for North Carolina automobile insurance. The investigators observed that numerous policies where proof of residency presented was fraudulent and or missing from the file or not obtained from policyholders. The investigators observed that the agency wrote

multiple policies for the same address without questioning why there were so many different policyholders residing at the same address. In addition, there were numerous claims occurring out of state. The agency and producers employed by the Mitchell Agency including Mr. Mitchell failed to obtain proof of residency as required by N.C. Gen. Stats. §§ 58-2-164(c), (c1), (c2) and (f) and were therefore in violation thereof; and

WHEREAS, N.C. Gen. Stat. § 58-3-149(b) and (c) provide:

(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; and

WHEREAS, during the certificate of insurance review investigators observed four (4) incorrect certificates including a medical payment coverage of \$5,000.00 when it should have been \$10,000.00 due to additional package coverage provided by the policy which increased the medical coverage to \$10,000.00. A Mitchell Agency producer failed to correct the certificate with additional medical coverage. Such actions were violations of N.C. Gen. Stat. § 58-3-149(b) and (c); 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; and

WHEREAS, during the review Department investigators were unable to follow the complete premium process due to the agency not keeping deposit slips. The investigators were able to see the funds receipted and swept, but not deposited, violations of N.C. Gen. Stats. § 58-2-185, 58-2-195(b), 11 NCAC 19 .0102, and 11 NCAC 19 .0104; 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; activities and practices observed by Department investigators during the target examination of the Mitchell Agency and Mr. Mitchell reflect violations of N.C. Gen. Stat. § 58-33-46(a)(8); 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, the Mitchell Agency and Mr. Mitchell have 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 the Mitchell Agency and Mr. Mitchell; and

WHEREAS, the Mitchell Agency and Mr. Mitchell have filed a corrective action plan with the Agent Services Division which set forth actions already taken and/or to be taken to prevent future occurrences of the violations set forth herein; 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, Ms. Burton and the Agent Services Division hereby agree to the following:

1. Immediately upon the signing of this Agreement, the Mitchell Agency shall pay a civil penalty of **\$1,800.00** to the Agent Services Division and Mr. Mitchell in his capacity as a producer shall pay a civil penalty of **\$2,000.00**. The forms of payment shall be by certified check, cashier's check, or money order. The checks or money orders for the payment of these civil penalties shall be payable to the "**North Carolina Department of Insurance**." The Mitchell Agency and Mr. Mitchell shall remit the civil penalties by certified mail, return receipt requested, to the Agent

Services Division along with a copy of this signed Agreement. The civil penalties and the signed Agreement must be received by the Agent Services Division no later than **December 22, 2023**. The civil penalties 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 the Mitchell Agency or Mr. Mitchell, or in any complaints involving the Mitchell Agency or Mr. Mitchell.
3. The Mitchell Agency and Mr. Mitchell enter into this Agreement, freely and voluntarily and with the knowledge of their right to have an administrative hearing on this matter. Both understand that they 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. The Mitchell Agency and Mr. Mitchell understand that N.C.G.S. § 58-33-46(a)(2) provides that an agency or 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 the Mitchell Agency and Mr. Mitchell shall reflect that Regulatory Action has been taken against them. 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, will provide a copy of the voluntary settlement agreement to all companies that have licensed the producer or the agency.
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: Lacy Mitchell
License No. 6575238
Mitchell Insurance Services, LLC
License No. 14139109


By: Joe Wall
Deputy Commissioner

Date: 2-5-24

Date: 2/12/2024