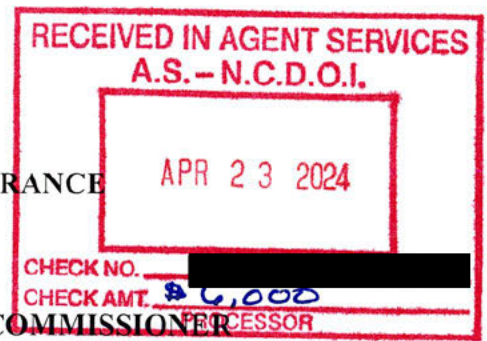


**NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA**



**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**BEFORE THE COMMISSIONER
OF INSURANCE**

**IN THE MATTER OF
THE LICENSURE OF
ORCHID UNDERWRITERS AGENCY, LLC
LICENSE NO. 15485539**

**VOLUNTARY SETTLEMENT
AGREEMENT**

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

WHEREAS, the N.C. Department of Insurance 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, Orchid Underwriters Agency, LLC is a Florida-domiciled company which currently holds a non-resident corporate business entity license and surplus lines business entity license issued by the Department; and

WHEREAS, Orchid Underwriters Agency, LLC is a managing general agent that was established in 1998 and is majority-owned by TowerBrook Capital Partners, L.P., and Orchid Underwriters Agency, LLC conducts business in all States, the Caribbean Isles and the Bahamas; and

WHEREAS, during the period of July 8, 2023 through September 19, 2023, Department investigators conducted a compliance check agency review of Orchid Underwriters Agency, LLC of their office located at 1201 19th Place, Stw A110, Vero Beach, FL in order to verify that all employees were appropriately licensed and appointed, to audit the agency's financials, and to randomly review files to verify proper underwriting. This agency review was conducted following the parties entering into a previous Voluntary Settlement Agreement that was executed on August 31, 2022, following an agency review conducted during the period of February 3, 2021 to June 11, 2021. Due to the Department's determination that violations of agent licensing and appointment laws were observed during the compliance check agency review, the investigation was modified to a target examination; and

WHEREAS, N.C. Gen. Stat. § 58-33-26(a) provides that: "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"; and

WHEREAS, N.C. Gen. Stat. § 58-33-26(b) provides that: “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.G.S. § 58-33-26(j) provides that “A business entity that sells, solicits, or negotiates insurance shall be licensed in accordance with G.S. 58-33-31(b). Every member of the partnership and every officer, director, stockholder, and employee of the business entity personally engaged in this State in selling, soliciting, or negotiating policies of insurance shall qualify as an individual licensee. . .” 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. § 58-21-65(a) provides that “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, the Department’s investigators reviewed 75 randomly sampled admitted and non-admitted policies written by Orchid Underwriters Agency, LLC between September 1, 2022 through July 15, 2023 and observed many instances in which:

- (1) unlicensed employees were involved in quoting, binding, and placing insurance coverage which activities the Department deems to be in violation of N.C.G.S. § 58-33-26(a),
- (2) employees were involved in quoting, binding, and placing insurance coverage through admitted carriers without a property and casualty license when required which activities the Department deems to be in violation of N.C.G.S. § 58-33-26(b),
- (3) employees were involved in quoting, binding and placing coverage with non-admitted carriers without a surplus lines license which activities the Department deems to be in violation of N.C.G.S. § 58-21-65, and
- (4) employees were involved in quoting, binding, and placing coverage with admitted carriers without having appointments with those carriers or without being licensed and appointed with these admitted carriers.

WHEREAS, procuring and negotiating insurance coverage through admitted and non-admitted insurers without being properly licensed or appointed constitute violations of the provisions of N.C. Gen. Stat. §§ 58-33-26(a), (b), & (j), 58-21-65(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 33 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, Orchid Underwriters Agency, LLC has agreed to settle, compromise, and resolve the matters referenced in this Agreement and the Department has agreed not to pursue additional civil ramifications, including penalties, sanctions, remedies, or restitution based on these matters against Orchid Underwriters Agency, LLC; 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

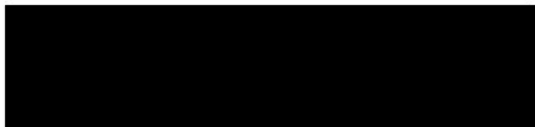
NOW, THEREFORE, in exchange for the consideration and promises and agreements set out herein, Orchid Underwriters Agency, LLC and the Department hereby agree to the following:

1. Immediately upon the signing of this Agreement, Orchid Underwriters Agency, LLC shall pay a civil penalty of **\$6,000.00** 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." ORCHID UNDERWRITERS AGENCY, LLC 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 **April 23, 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. Orchid Underwriters Agency, LLC agrees that it will promptly implement the corrective action plan submitted to the Agent Services Division by electronic mail on March 12, 2024.
3. This Agreement does not in any way affect the Department's disciplinary power in any future examination of Orchid Underwriters Agency, LLC or in any complaints involving Orchid Underwriters Agency, LLC.
4. Orchid Underwriters Agency, LLC enters into this Agreement freely and voluntarily and with the knowledge of its right to have an administrative hearing on this matter. Orchid Underwriters Agency, LLC has consulted with its corporate counsel prior to entering into this Agreement.

5. The parties to this Agreement agree that this Agreement shall have the full force and effect of an Order of the Commissioner. Orchid Underwriters Agency, LLC 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.
6. 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 Orchid Underwriters Agency, LLC 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.
7. The parties have read and understand this Agreement and agree to abide by the terms and conditions stated herein.
8. 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.

Orchid Underwriters Agency, LLC

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


By: James R. Waite
Chairman


By: Angela Harchen
Deputy Commissioner

Date: 04/18/2024

Date: 4/23/24