

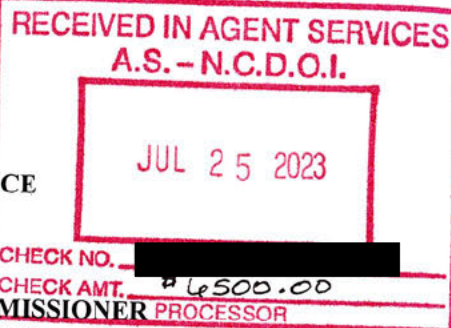
NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE MATTER OF
THE LICENSURE OF
DERRICK L. RODGERS
LICENSE NO. 0006594848

BEFORE THE COMMISSIONER
OF INSURANCE

VOLUNTARY SETTLEMENT
AGREEMENT



NOW COME, Derrick L. Rodgers (hereinafter "Mr. Rodgers") 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. Rodgers currently holds a resident producer's license with authority for Property, Casualty, Life, and Accident & Health or Sickness lines of insurance issued by the Department; and

WHEREAS, the Agent Services Division received a referral from the Consumer Services Division regarding a consumer complaint indicating that Mr. Rodgers would not deliver three (3) Certificates of Insurance (COIs) or provide the consumer with answers regarding why he was not receiving refunds for his workers compensation policy after a completed audit. The consumer had concerns that the agency had been keeping his premiums and not applying them to the workers compensation policy. Agent Services Division thereafter conducted a review of the LaVaughn Rodgers Insurance Agency during the period May 13, 2022 through July 18, 2022 and an investigation into the complaint of the consumer; and

WHEREAS, N.C. Gen. Stat. § 58-33-46(a)(5) 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 intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance; 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, 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, for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere; 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, it appears that the agency is in violation of record keeping. (N.C. Gen. Stats. §§ 58-2-185, 58-2-195(b), 11 NCAC 19.0102, 19.0104). The bank statements did not contain check images. Investigators present Mr. Rodgers with a handwritten list of check images needed or check register. As of the completion of the examination, Mr. Rodgers had not produced the payee information. The investigators also attempted to trace premium funds but could not determine exactly when the funds were deposited based on the records provided.

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, it appears that the agency address is not on the receipts, and all receipts are not consistently signed by the person accepting payments, violations of 11 NCAC 04.0121; and

WHEREAS, 11 NCAC 04.0120 provides, among other things, that an agent, broker, or limited representative who deals directly with an applicant and, who intends to charge a policy or service fee in accordance with N.C. Gen. Stat. § 58-33-85(b), shall not do so unless he or she provides a dated and signed receipt for the payments every time a fee is charged; and

WHEREAS, Mr. Rodgers admitted to the investigators that the service fee consent form is not signed each and every time a fee is charged, a violation of 11 NCAC 04.0120; and

WHEREAS, N.C. Gen. Stat. § 58-33-26(a) provides: No person shall act or hold himself or herself out to be an agent, broker, limited representative, adjuster, or motor vehicle appraiser unless duly licensed; and

WHEREAS, N.C. Gen. Stat. § 58-33-26(b) provides: No agent, broker, or limited representative shall make application for, or place for others, any policies for any kinds of insurance as for which that person is not then qualified and duly licensed; and

WHEREAS, Investigators observed Agent Anna Ball placing insurance business with admitted companies without a broker's license, violations of N.C. Gen. Stat. § 58-33-26(a) and (b). Ms. Ball obtained a broker's license on June 23, 2022; and

WHEREAS, the agency filed a corrective action plan with the Agent Services Division on March 19, 2023 and a revised action plan on March 26, 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

WHEREAS, it appears that the certificates in question were invalid in that such certificates were associated with policies that did not exist. The consumer paid for workers compensation policies that were not issued, although the agency still issued certificates showing that coverage was in force. The agency did not refund the \$4,600 that the consumer paid for policies that were not placed until after the complaint was filed with the Department. One COI referred to a general liability policy that did not exist, another listed the wrong policy number and effective dates thereon, and the agency issued a COI for a policy after the policy had been cancelled. Such activities on the part of the agency and Mr. Rodgers appear to be violations of the provisions of N.C. Gen. Stats: §§ 58-3-150 (f), 58-33-46(a)(5) and (a)(8); 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, the investigators reviewed the combined premium account (4140) from January 2017 through April 2022 and observed twelve (12) days when the account was overdrawn and or fees were assessed resulting in overdraft fees of \$140.00 and non-sufficient fund return item fees of \$105.00. On days when the account was overdrawn forty-six (46) premium drafts were presented for payment. It also appears that the consumer's premium did not remain in the premium account. The agency did not properly remit it to the carrier when it should have remained in the account. Such would indicate that the insured's funds were misappropriated. Such deficiencies illustrate that premium funds were not available to the insurers at all times and appear to be in violation of the provisions 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

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. Rodgers 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. Rodgers; 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. Rodgers and the Agent Services Division hereby agree to the following:


1. Immediately upon the signing of this Agreement, Mr. Rodgers shall pay a civil penalty of **\$6,500.00** 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. Rodgers 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 **July 24, 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. Rodgers, or in any complaints involving Mr. Rodgers.
3. Mr. Rodgers 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. Rodgers 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. Rodgers 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. Rodgers 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 will provide a copy of the voluntary settlement agreement to any company that has 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: Derrick L. Rodgers
License No. 0006594848


By: Angela Hatchell
Deputy Commissioner

Date: 7/20/23

Date: 7/25/2023