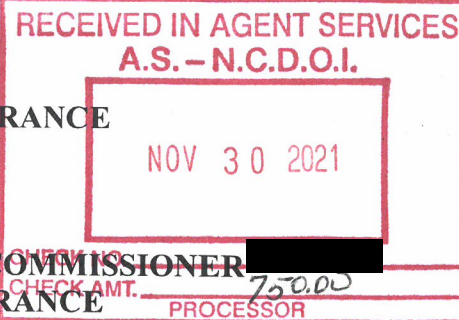


**NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA**



**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**BEFORE THE COMMISSIONER
OF INSURANCE**

**IN THE MATTER OF
THE LICENSURE OF
BRADLEY L. SMART
LICENSE NO. 0007673448**

**VOLUNTARY SETTLEMENT
AGREEMENT**

NOW COME, Bradley L. Smart (hereinafter "Mr. Smart") 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 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, Mr. Smart currently holds a resident producer's license with authority for Property and Casualty lines of insurance and a surplus lines license issued by the Department; and

WHEREAS, the Department conducted an agency review of Mr. Smart's agency, Smart Specialty Insurance, from February 02 through July 02, 2021; due to violations observed during the routine agency review, the review was elevated to target status; 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. § 58-21-65(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, Ms. Kelly Smart, an employee of Mr. Smart at Smart Specialty Insurance, allowed her producer's license to expire in October of 2019 and did not obtain renewal thereafter. Agent Services Division investigators determined that Mr. Smart, during the course and extent of the review, allowed Ms. Kelly Smart to price endorsements and submit new business, which activities required a producer's license. Furthermore, Ms. Kelly Smart did not hold a broker's license or the proper company appointments to act on behalf of insurers after the expiration of her producer's license in 2019; and

WHEREAS, Mr. Smart, by allowing Ms. Kelly Smart to procure and negotiate insurance coverage through admitted and surplus lines insurers without being properly licensed or appointed, was in violation of the provisions of N.C. Gen. Stats. §§ 58-33-26(a) & (b), 58-21-65(a) and 58-33-40(a); 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, Department investigators requested copies of all cancelled checks paid from the premium account, and Mr. Smart failed to provide such records; failure on the part of Mr. Smart to provide requested records constituted violations of N.C. Gen. Stat. § 58-2-185, 58-2-195(b) and 11 NCAC 19 .0102; and

WHEREAS 11 NCAC 04.0120 (2) provides that an agent, broker, or limited representative who deals directly with an applicant and intends to charge a policy or service fee is required to obtain the applicant's consent in writing on a separate form each time a policy or

service fee is charged. The form shall be entitled, "Policy or Service Fee Consent" and shall include the date and amount of each fee charged; and

WHEREAS, Agent Services Division investigators determined that Mr. Smart failed to obtain consent forms for admitted business on which policy or service fees were charged, a violation of 11 NCAC 04.0120 (2); 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. Smart 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. Smart; 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. Smart and the Agent Services Division hereby agree to the following:

1. Immediately upon the signing of this Agreement, Mr. Smart shall pay a civil penalty of **\$750.00** 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. Smart 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 **November 22, 2021**. 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. Smart, or in any complaints involving Mr. Smart.
3. Mr. Smart 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. Smart 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. Smart 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. Smart 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: **Bradley L. Smart**
License No. 0007673448


By: **Angela Hatchell**
Deputy Commissioner

Date: 11/17/2021

Date: 12/1/2021