

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

**RECEIVED IN AGENT SERVICES
A.S. - N.C.D.O.I.**

SEP 27 2024

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**BEFORE THE COMMISSIONER
OF INSURANCE**

**CHECKING
CHECK AMT. \$19,800.00
PROCESSOR Jm**

**IN THE MATTER OF
THE LICENSURE OF
SOUTHERN INSURANCE UNDERWRITERS, INC.
NPN: 963242**

**VOLUNTARY SETTLEMENT
AGREEMENT**

NOW COME, SOUTHERN INSURANCE UNDERWRITERS, INC. (hereinafter "SOUTHERN") and the N.C. Department of Insurance Agent Services Division (hereinafter "ASD"), and hereby voluntarily and knowingly enter into the following Voluntary Settlement Agreement (hereinafter "this Agreement"); and

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, SOUTHERN currently holds a non-resident corporate business entity license issued by the Department; and

WHEREAS, SOUTHERN is a Managing General Agency based in Alpharetta, Georgia, a privately owned company. SOUTHERN was established in 1964 and conducts business in North Carolina, South Carolina, Georgia, Alabama, Tennessee and Mississippi; and

WHEREAS, Agent Services Division investigator emailed Wesley Duesenberg on October 17, 2023 and informed him that a routine agency review will be conducted. Mr. Duesenberg forwarded a list of all North Carolina policies written from August 01, 2020 through August 01, 2023; and

WHEREAS, one hundred (100) policies were selected for review. Thirty-five (35) of the selected policies were written with admitted insurers and sixty-five (65) of the selected policies were written through non-admitted insurers. Thirty-two (32) of the admitted policies appeared to involve employees procuring coverage that were either unlicensed in North Carolina or did not have appropriate company appointments. With respect to three (3) of the policies written through admitted insurers, Agent Services Division investigators could not determine the identity of the underwriters involved, but no issues with them were observed; and

WHEREAS, with respect to the sixty-five (65) non-admitted policies reviewed, sixty-four (64) appeared to involve employees procuring coverage who were not properly licensed. Only one (1) non-admitted policy appeared not to have any issues; and

WHEREAS, ASD investigators observed in the files examined that SOUTHERN had charged service fees on admitted policies but not on a consistent basis. In addition, policy files did not contain signed consent forms whenever fees were charged; 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, 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. § 58-33-85 (b) provides that no insurer, insurance producer, or limited representative shall knowingly charge to or demand or receive from an applicant for insurance any money or other consideration in return for the processing of applications or other forms or for the rendering of services associated with a contract of insurance, which money or other consideration is in addition to the premium for such contract, unless the applicant consents in writing before any services are rendered. This subsection does not apply to the charging or collection of any fees otherwise provided for by law. (1987,

WHEREAS, N.C. Gen. Stat. § 58-33-80 provides that no insurance producer or representative of any company doing the business of insurance as defined in G.S. 58-7-15 shall make any discrimination in favor of any person; and

WHEREAS, SOUTHERN, by allowing the procuring and negotiating of insurance coverages through admitted and non-admitted insurers by employees who were not properly licensed or appointed, was in violation of the provisions of N.C. Gen. Stats. §§ 58-33-26(a) & (b), 58-21-of 65(a) and 58-33-40(a); and

WHEREAS, SOUTHERN by not obtaining consent of insureds in situations where fees were charged in addition to the premium, not obtaining signed consent forms and applying fees in excess of the appropriate premium in an inconsistent manner, SOUTHERN was in violation of the provisions of N.C. Gen. Stats. § 58-33-85 (b) and 58-33-80; 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, SOUTHERN has filed a corrective action plan with the Agent Services Division which sets forth the actions already taken and/or to be taken to prevent future occurrences of the violations set forth herein; and

WHEREAS, SOUTHERN has 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 SOUTHERN; and

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

1. Immediately upon the signing of this Agreement, SOUTHERN shall pay a civil penalty of **\$19,800.00** 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." SOUTHERN 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 **October 07, 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. This Agreement does not in any way affect the Agent Services Division's disciplinary power in any future examination of SOUTHERN or in any complaints involving SOUTHERN.
3. SOUTHERN enters into this Agreement freely and voluntarily and with the knowledge of its right to have an administrative hearing on this matter and 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. SOUTHERN 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.

5. 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 SOUTHERN 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.
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 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.

Southern Insurance Underwriters, Inc.
NPN: 963242

By: Wesley Duesenberg, Jr.
CEO

N.C. Department of Insurance
Agent Services Division

By: Joe Wall
Deputy Commissioner

Date: 9-12-24

Date: 9/24/2024