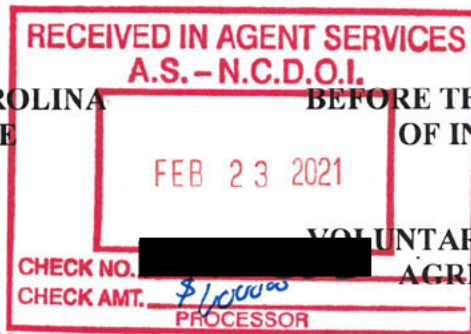


STATE OF NORTH CAROLINA
COUNTY OF WAKE



BEFORE THE COMMISSIONER
OF INSURANCE

IN THE MATTER OF
THE LICENSURE OF
JULIO C. BATISTA
LICENSE NO. 0005310068

VOLUNTARY SETTLEMENT
AGREEMENT

NOW COME, Julio Batista (hereinafter "Mr. Batista") and the North Carolina Department of Insurance (hereinafter "Department"), 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

WHEREAS, Mr. Batista currently holds a resident producer's license with authority for Life, Accident & Health or Sickness, Property and Casualty lines of insurance and a Broker's license issued by the Department; 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, a Department target investigation was conducted by Department investigators of the Peco Insurance Agency (Peco) located in Charlotte, NC, owned and operated by Mr. Batista, to verify that all agency employees were appropriately licensed, to audit the agency's financials, and to randomly review files to verify proper underwriting; the target investigation was occasioned by a complaint from a broker in Georgia who forwarded a copy of a quote made by Peco to the Department that appeared to be altered; and

WHEREAS, according to the complainant, the fonts used on the quote were different from those used by the Jackson Sumner Agency (JSA), the agency through whom the quote was handled; the quote listed Stonewood Insurance Company as the insurer, and involved cargo insurance, a line of insurance that was not offered by Stonewood in the state of Georgia; Danielle Wade, a representative of JSA informed the Department that it advised Mr. Batista in 2018 to stop issuing certificates of insurance on policies written through Jackson Sumner; and

WHEREAS, Mr. Batista informed the investigators that he had two offices in North Carolina and one in Medley, FL; the Florida office was staffed by two (2) agents, Cindy Perez and Maite Clavero; it was determined that Ms. Perez had processed the quote, who accepted responsibility for issuing the quote; and

WHEREAS, Ms. Perez, who quoted the coverage under Mr. Batista's license and appointments, by providing an unauthorized and incorrect quote misled the applicant and was therefore in violation of N.C. Gen. Stat. § 58-33-46(a) (8); and

WHEREAS, N.C. Gen. Stat. § 58-33-26(a) and (b) provide 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; or 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, a review of Peco Agency business indicated that Ms. Perez wrote 16 policies for N.C. residents and Ms. Clavero wrote 228 policies on N.C. residents without being licensed as non-resident agents, and therefore both were in violation of N.C. Gen. Stat. §58-33-26(a) and (b); and

WHEREAS, Mr. Batista violated N.C. Gen. Stat. § 58-33-26(a) and (b) by allowing the employees to write insurance policies without being properly licensed; and

WHEREAS, N.C. Gen. Stat. § 58-2-164(c)-Rate evasion fraud; prevention programs- provides: 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 agent may satisfy the requirements of this section by obtaining from the applicant reliable proof of North Carolina residency and the applicant's status as an eligible risk; and

WHEREAS, the investigators reviewed twenty-five (25) auto policies where agency records indicated that fourteen (14) of which involved drivers with out-of-state licenses, and that such files did not contain any information regarding drivers' licenses or proof of residency as required by N.C. Gen. Stat. § 58-2-164(c) ; and

WHEREAS, Mr. Batista and Peco were not in compliance with the provisions of N.C. Gen. Stat. § 58-2-164 (Rate evasion fraud; prevention programs.), in that it appears the agency did not obtain proof of residency for all policies written for applicants with out of state drivers' licenses; and

WHEREAS, it was determined that Peco was charging a \$150 service fee for new policies; however Peco did not obtain consent forms when fees were charged; and

WHEREAS, Mr. Batista and Peco violated the provisions of 11 NCAC 0.4.0120, Policy or Service Fees, by not using a service fee consent form when customers were charged fees; and

WHEREAS, Mr. Batista implemented corrective procedures prior to the conclusion of the review and advised his employees to obtain proof of residency when an applicant has a foreign or out of state driver's license; and he also provided a consent form to be used when a service fee is charged; 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, Mr. Batista has agreed to settle, compromise, and resolve the matters referenced in this Agreement on behalf of himself, and the Department has agreed not to pursue additional penalties, sanctions, remedies, or restitution based on these matters against Mr. Batista; 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. Batista and the Department hereby agree to the following:

1. Immediately upon the signing of this Agreement, Mr. Batista shall pay a civil penalty of **\$1,000.00** 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." Mr. Batista shall remit the civil penalty by certified mail, return receipt requested, to the Department along with a copy of this signed Agreement. The civil penalty and the signed Agreement must be received by the Department no later than **February 16, 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 Department's disciplinary power in any future examination of Mr. Batista or in any other complaints involving Mr. Batista.
3. Mr. Batista 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. Batista 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. Batista understands that N.C.G.S. § 58-33-46(a)(2) and 58-71-80(a)(7) provide respectively 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 Department. Following the execution of this Agreement, all licenses issued by the Department to Mr. Batista 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 Department, upon request, routinely provides a copy of the voluntary settlement agreement to all companies that have appointed the licensee.
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 you, 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.

N. C. Department of Insurance



By: Julio C. Batista
License No. 0005310068



By: Angela Hatchell
Deputy Commissioner

Date: 02/16/21.

Date: 2/23/2021