

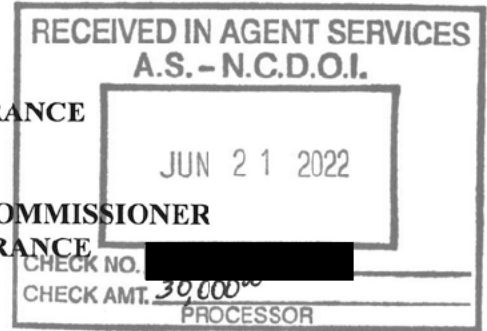
NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE COMMISSIONER
OF INSURANCE

IN THE MATTER OF
THE LICENSURE OF
BURNS & WILCOX, LTD.
LICENSE NO. 1000006506

VOLUNTARY SETTLEMENT
AGREEMENT



NOW COME, Burns & Wilcox, Ltd. (hereinafter “BURNS&WILCOX”) 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, BURNS&WILCOX holds Corporation (business entity) and Surplus Lines Business Entity licenses issued by the Agent Services Division; and

WHEREAS, Agent Services Division investigators conducted a review of Burns and Wilcox, Ltd., a managing general agency, at the company’s Morehead City location, one of three in this State, during the period April 28th through August 4th, 2021, to verify that all agency employees were appropriately licensed, to analyze the agency’s financials, and to randomly review files to verify proper underwriting; the routine review was modified to a target review based on violations observed; and

WHEREAS, a desk review was conducted because the agency was currently closed to the public and the agency was in the process of purchasing the building in which it was located; after the purchase, BURNS&WILCOX indicated that the building would be extensively remodeled; 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 in 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 issue by the Commissioner

WHEREAS, at the investigators' request, BURNS&WILCOX provided a list of 23,817 active North Carolina policies written during the last three (3) years which were insured with admitted and non-admitted companies; the investigators selected approximately 200 policies based on the percentage of admitted to non-admitted policies, roughly one admitted (25%) to 3 non-admitted (75%); and

WHEREAS, investigators reviewed a total of 204 policy files, 157 written through non-admitted insurers and 47 written through admitted insurers and alleges that 191 of the 204 files reviewed indicated that unlicensed employees, employees without company appointments, and/or employees without surplus lines licenses were involved in the procurement of coverage; and

WHEREAS, the Agent Services Division contends that such activities on the part of such employees of BURNS&WILCOX were in violation of the provisions of N.C. Gen. Stats. §§ 58-33-26(a) & (b), 58-33-40(a), and 58-21-65(a); and

WHEREAS, BURNS&WILCOX neither admits nor denies the allegations contained in this Agreement but has agreed to its terms to settle and resolve this matter; 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, BURNS&WILCOX 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 BURNS&WILCOX; and


WHEREAS, the parties to this Agreement mutually wish to resolve this matter by consent in order to avoid the cost and expense of protracted litigation 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, BURNS&WILCOX and the Agent Services Division hereby agree to the following:

1. Immediately upon the signing of this Agreement, BURNS&WILCOX shall pay a civil penalty of **\$30,000.00** 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.**" BURNS&WILCOX 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 **June 21, 2022**. 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 BURNS&WILCOX, provided however, that this Agreement resolves all outstanding violations alleged by the Department, or that could have been alleged by the Department, in connection with its examination of BURNS&WILCOX, up to the date of this Agreement. This Agreement constitutes the voluntary settlement of disputed claims and nothing in this Agreement may be construed as an admission of wrongdoing.
3. BURNS&WILCOX enters into this Agreement freely and voluntarily and with the knowledge of its right to have an administrative hearing on this matter. BURNS&WILCOX understands it 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. BURNS&WILCOX understands that N.C.G.S. § 58-33-46(a)(2) provides that a Corporate (business entity) 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 BURNS&WILCOX 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. 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.

BURNS & WILCOX, Ltd.
License No. 1000006506


By: **Michael Heinle**
Senior Director, Compliance

Date: June 14, 2022

N. C. Department of Insurance
Agent Services Division


By: **Angela Hatchell**
Deputy Commissioner

Date: 6/21/2022