

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 JOHN CHENEY

VOLUNTARY SETTLEMENT
AGREEMENT

NOW COME John Cheney (hereinafter "Cheney") 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 insurance laws of this State, and for regulating and licensing insurance agents; and

WHEREAS, Cheney holds an active Life and Health insurance agent license, a Property and Liability insurance agent license, and a Medicare Supplement and Long Term Care insurance agent license issued by the Department; and

WHEREAS, Cheney is an agent for Cheney Insurance Agency (hereinafter "Cheney Insurance"). Cheney Insurance is located in Cary, North Carolina; and

WHEREAS, in July 2002, the Department received a complaint concerning allegations of wrongdoing by Cheney towards policyholders Charles and Mary Fredrick (hereinafter "the Fredricks"); and

WHEREAS, in June 1988, the Fredricks applied for and received a \$25,000.00 home equity loan from their credit union, and the Fredricks, *via* Cheney, used the home equity loan proceeds to purchase two single premium life insurance policies from Pacific Standard Life Insurance Company (hereinafter "Pacific Standard Life") for their two daughters, with a payment of \$12,500.00 per policy. The policy numbers were UM0181940 and UM 0181941; and

WHEREAS, on October 5, 1998, Cheney took out a loan on policy number UM0181940 in the amount of \$1,000.00, and he took out a loan on policy number UM 0181941 in the amount of \$1,000.00. Cheney forged the names of Charles and Mary Fredrick on the two loan requests, and Cheney took out these two loans without the consent or knowledge of the Fredricks; and

WHEREAS, Cheney endorsed the two \$1,000.00 checks and deposited the two checks into his own account without the consent or knowledge of the Fredricks; and

WHEREAS, the Fredricks never received the proceeds or any other benefit from the two \$1,000.00 loans taken out by Cheney on October 5, 1998; and

WHEREAS, Cheney has violated N.C. Gen. Stat. § 58-33-46(a)(10) by forging another's name to an application for insurance or to any document related to an insurance transaction; and

WHEREAS, Cheney has violated N.C. Gen. Stat. § 58-33-46(a)(4) by misappropriating or converting money or property received in the course of doing insurance business, in the amount of \$2,000.00; and

WHEREAS, Cheney has violated N.C. Gen. Stat. § 58-33-46(a)(8) by using fraudulent, dishonest practices, or demonstrating untrustworthiness in the conduct of business in this State or elsewhere; and

WHEREAS, Cheney has agreed to settle, compromise, and resolve the matters referenced in this Agreement, and the Department has agreed not to pursue additional penalties, sanctions, remedies, or restitution based on these matters against Cheney; and

WHEREAS, the parties to this Agreement mutually wish to resolve this matter by consent before the Department initiates an administrative hearing concerning this matter; and

WHEREAS, the parties to this Agreement have reached a mutually agreeable resolution of this matter as set out in this Agreement.

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

1. Contemporaneously with the execution of this document, Cheney shall pay a civil penalty of \$2,000.00 to the Department. The form of payment shall be in a certified check, cashiers 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."


2. Cheney enters into this Agreement freely and voluntarily and with knowledge of his right to have an administrative hearing on this matter. Cheney understands that he may consult with an attorney prior to entering into this Agreement.

3. This Agreement does not in any way affect the Department's disciplinary authority in any other cases or complaints involving Cheney.

4. The parties to this Agreement agree that this Agreement shall have the full force and effect of an Order of the Commissioner. Cheney understands that N.C. Gen. Stat. § 58-33-46(a)(2) provides that an agent's license may be revoked for violating an Order of the Commissioner.

5. The parties have read and understand this Agreement and agree to abide by the terms and conditions stated herein.


John Cheney


North Carolina Department of Insurance
By: Angela Ford
Senior Deputy Commissioner

Date: 12/6/04

Date: 12-13-04