

**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 KELLY A. COUNCIL**

**VOLUNTARY SETTLEMENT
AGREEMENT**

NOW COME, Kelly A. Council (hereinafter "Ms. Council") 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 bail bondsmen; and

WHEREAS, pursuant to N.C. Gen. Stat. § 58-71-80(a)(7), the Commissioner may deny, suspend, revoke, or refuse to renew any license under Article 71 of Chapter 58 of the North Carolina General Statutes for failure to comply with or violation of the provisions of Article 71 of Chapter 58 of the North Carolina General Statutes or of any order, rule or regulation of the Commissioner; and

WHEREAS, N.C. Gen. Stat. § 58-71-40 (a) and (b) provide that no person shall act in the capacity of a surety bondsman unless qualified and licensed, and the Commissioner may propound any reasonable interrogatories about the applicant's qualifications and any other matters the Commissioner considers necessary to protect the public and ascertain the qualifications of the applicant and conduct a reasonable inquiry or investigation relative to the determination of the applicant's fitness to be licensed or to continue to be licenses; and

WHEREAS, N.C. Gen. Stat. § 58-71-80(a) (3) provides that the Commissioner may deny, place on probation, suspend, revoke, or refuse to renew a license for a material misstatement, misrepresentation or fraud in obtaining the license; and

WHEREAS, Ms. Council applied for a surety bail bond license on September 20, 2019; and

WHEREAS, Ms. Council answered "No" to the question on the application: "Have you ever been convicted, or are you currently charged with, committing a crime, whether or not adjudication was withheld?"; and

WHEREAS, on or about October 21, 2008, Ms. Council was found guilty of one count of the Misdemeanor, Simple Affray-Prayer for Judgment (Bladen County, NC, File # 08CR 052782); and

WHEREAS, on or about December 07, 2013, Ms. Council was found guilty of one count of the Misdemeanor, Harassing Phone Call (Hoke County, NC, File # 13CR 051741); and

WHEREAS, on or about December 07, 2013, Ms. Council was found guilty of one count of the Misdemeanor, Cyberstalking (Hoke County, NC, File # 13CR 051741); and

WHEREAS, a violation of N.C. Gen. Stat. § 58-71-80 (a) (3) constitutes grounds for denying Ms. Council's application for licensure; and

WHEREAS, the Department denied Ms. Council's application on October 16, 2019, and Ms. Council requested a review of the Department's action on the same day, and a review was scheduled for November 13, 2019; and

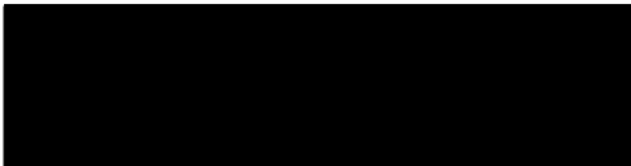
WHEREAS, Ms. Council agreed on September 19, 2019 to execute a Voluntary Settlement Agreement and pay a fine in the amount of \$500.00 as a condition to being licensed as a surety bail bondsman; and

NOW, THEREFORE, in consideration of the promises and agreements set out herein, the Department and Ms. Council hereby agree to the following:

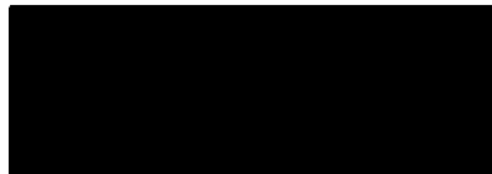
1. Immediately upon her signing of this document, Ms. Council shall pay a **civil penalty of \$500.00** to the Department. The form of payment shall be in the form of a certified check, cashier's check or money order. The check or money order for the payment of this civil penalty shall be payable to the "North Carolina Department of Insurance." Ms. Council shall send the civil penalty by certified mail, return receipt requested, to the Department simultaneously with the return of this Agreement, signed by Ms. Council. The civil penalty and the signed Agreement must be received by the Department no later than **December 30, 2019**. 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 the public schools.
2. The Department has reconsidered its denial of Ms. Council's application for licensure as a surety bail bondsman and will issue Ms. Council a surety bondsman's license upon receipt of Ms. Council's execution of this Voluntary Settlement Agreement and return to the Department accompanied with payment of the civil penalty set forth above in the amount of \$500.00; and
3. Ms. Council shall obey all laws and regulations applicable to all licenses issued to her.

4. Ms. Council enters into this Agreement freely and voluntarily and with knowledge of her right to have an administrative hearing on this matter. Ms. Council understands that she may consult with an attorney prior to entering into this Agreement.
5. This Agreement does not in any way affect the Department's disciplinary power in any future follow-up examinations of Ms. Council, or in any other cases or complaints involving Ms. Council.
6. The parties to this Agreement agree that this Agreement shall have the full force and effect of an Order of the Commissioner. Ms. Council understands that N. C. Gen. Stat. § 58-71-80(a)(7) provides that a surety bondsman's license may be revoked for violating an Order of the Commissioner.
7. This Voluntary Settlement Agreement, when finalized, will be a public record and is not confidential. All licenses issued by the Department to the licensee shall reflect that Regulatory Action has been taken against the licensee following the execution of this Agreement. The Department is free to disclose the contents of this Agreement to third parties upon request or pursuant to any law or policy providing for such disclosure. The Department routinely provides copies of voluntary settlement agreements to all companies that have appointed the licensee.
8. This Settlement Agreement shall become effective when signed by Ms. Council and the Department.

N.C. Department of Insurance



By: Kelly A. Council
Applicant



By: Marty Sumner
Senior Deputy Commissioner

Date: 12/26/2019

Date: 1/6/2020