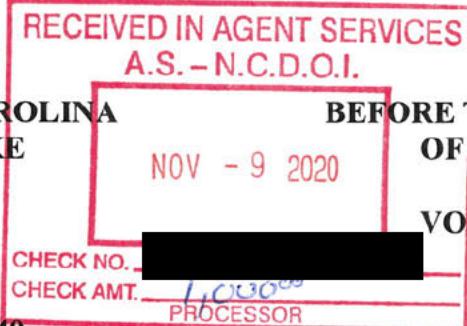


STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE MATTER OF
THE LICENSURE OF
SAYDA MARTINEZ
LICENSE NO. 0006548140



BEFORE THE COMMISSIONER
OF INSURANCE

VOLUNTARY SETTLEMENT
AGREEMENT
PROCESSOR



NOW COME, Sayda Martinez (hereinafter “Ms. Martinez”) 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, Ms. Martinez 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, a Department target examination was conducted by Department examiners of the Financial Solutions Multiservicios Agency of Charlotte, NC to verify that all agency employees are appropriately licensed, to audit the agency’s financials, and to randomly review files to verify proper underwriting; the target examination was occasioned by a complaint received from an agent stating that the agency was writing auto policies incorrectly resulting in lower premiums by using Puerto Rico drivers’ licenses to rate the policies rather than using the correct foreign classification; and

WHEREAS, the examiners contacted National General Insurance Company to obtain a policyholder list which showed that 779 of the 1153 policies written at Financial Solutions Multiservicios Agency, of which 341 were written by Ms. Martinez, were rated using Puerto Rico licenses; and

WHEREAS, N.C. Gen. Stat. § 58-36-30(a) Deviations, among other things, provides that no insurer and no officer, agent, or representative of an insurer shall knowingly issue or deliver or knowingly permit the issuance or delivery of any policy of insurance in this State that does not conform to the rates, rating plans, classifications, schedules, rules and standards made and filed by the Bureau; and

WHEREAS, the examiners reviewed fifty (50) policies where agency records indicated that applicants had drivers’ licenses from Honduras, El Salvador and Mexico, or did not contain any information regarding drivers’ licenses or proof of residency; and

WHEREAS, it appears that Ms. Martinez incorrectly rated policies using Puerto Rico drivers’ licenses instead of using the international licenses classification in multiple cases. The policy premiums resulting from such procedure produced rates lower than if properly rated using the international license. During the review, the examiners observed passports in the file instead

of copies of international drivers' licenses, and in a few cases, proofs of residency were not in the policy file. It was unclear how the agents were calculating the years of experience given on the applications; and

WHEREAS, Ms. Martinez was not in compliance with the provisions of N.C. Gen. Stat. § 58-36-30(a) in that multiple policies were not rated in conformance with the rates, rating plans, classifications, schedules, rules and standards made and filed by the Bureau; and

WHEREAS, Ms. Martinez was 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 was not obtaining proof of residency for all policies written for applicants with out of state or international driver's licenses; 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, the examiners observed that an agency employee was discussing insurance quotes without being properly licensed in violation of N.C. Gen. Stat. § 58-33-26(a) and (b); and

WHEREAS, Ms. Martinez violated N.C. Gen. Stat. § 58-33-26(a) and (b) by allowing the employee to discuss insurance policy quotes without being properly licensed; and

WHEREAS, Ms. Martinez 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 receipts issued in some cases did not identify what fees were being charged and did not acknowledge that such were discussed during the transaction which is required by the rule; and

WHEREAS, N.C. Gen. Stat. § 58-33-80 provides that no agent 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, the examiners observed that the agency offered discounted fees for customers that purchased multiple insurance policies and was not consistently charging the same fees for all customers in violation of N.C. Gen. Stat. § 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, Ms. Martinez has agreed to settle, compromise, and resolve the matters referenced in this Agreement on behalf of herself, and the Department has agreed not to pursue

additional penalties, sanctions, remedies, or restitution based on these matters against Ms. Martinez; 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, Ms. Martinez and the Department hereby agree to the following:

1. Immediately upon the signing of this Agreement, Ms. Martinez shall pay a civil penalty of **\$2,000.00** 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." Ms. Martinez 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 **November 13, 2020**. 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 Ms. Martinez or in any other complaints involving Ms. Martinez.
3. Ms. Martinez enters into this Agreement, on behalf of herself, freely and voluntarily and with the knowledge of her right to have an administrative hearing on this matter. Ms. Martinez understands she 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. Ms. Martinez 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 Ms. Martinez shall reflect that Regulatory Action has been taken against her. 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: Sayda Martinez
License No. 0006548140

Date: 10/30/2020



By: Angela Hatchell
Deputy Commissioner

Date: 11/9/2020