

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**BEFORE THE COMMISSIONER
OF INSURANCE**

**IN THE MATTER OF THE
LICENSURE OF
KELLY MILLER
LICENSE NO. 0017332749**

**VOLUNTARY SETTLEMENT
AGREEMENT**

NOW COME, Kelly Miller (hereinafter "Mr. Miller") 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 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 N.C. General Statutes or of any order, rule or regulation of the Commissioner; and

WHEREAS, pursuant to N.C. Gen. Stat. § 58-71-80(a)(5), the Commissioner may place on probation, suspend, revoke or refuse to renew any license for fraudulent, coercive, or dishonest practices in the conduct of business or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this jurisdiction or any other jurisdiction; and

WHEREAS, Mr. Miller stacked five (5) powers of attorneys (POA) with a limit of \$5500.00 each for a \$25,000 bond on August 1, 2018 for defendant Tyrone Covington in Richmond County, NC; and

WHEREAS, said POAs read: "This power void if altered or erased, void if used with other powers of this company or in combination with powers from any other surety company, void if used to furnish bail in excess of the stated face amount of this power and can only be used once."; and therefore were void and improperly used to post bond for Mr. Covington; and

WHEREAS, pursuant to N.C. Gen. Stat. § 58-71-80 (a) (14b), 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 a violation of any law governing bail bonding or insurance in this State or any other jurisdiction or (ii) any rule of the Financial Industry Regulatory Authority (FINRA); and

WHEREAS, N.C. Gen. Stat. § 58-71-40 (a) provides that no person shall act in the capacity of a professional bondsman, surety bondsman or runner or perform any of the functions, duties, or powers prescribed for professional bondsmen, surety bondsmen, or runners unless that person is qualified and licensed; and

WHEREAS, the bond for Mr. Covington was written while Mr. Miller's surety bondsman's license had lapsed for failure to complete the 2018 renewal process for his license, and therefore Mr. Miller was in violation of N.C. Gen. Stat. § 58-71-40 (a); and

WHEREAS, N.C. Gen. Stat. §§ 58-71-80(a) (5) and (a) (8), provide that the Commissioner may deny, place on probation, suspend, revoke, or refuse to renew any license, among other things, for fraudulent or dishonest practices in the conduct of business in this State and/or untrustworthiness; and

WHEREAS, Mr. Miller's actions in improperly stacking bonds and acting in the capacity of a surety bondsman without being properly licensed demonstrate a failure to comply with and/or violations of the provisions of Article 71 of Chapter 58 of the North Carolina General Statutes for which Mr. Miller's surety bail bondsman's license could be suspended or revoked; and

WHEREAS, in lieu of an administrative hearing on the matters stated herein, Mr. Miller 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 Mr. Miller; and

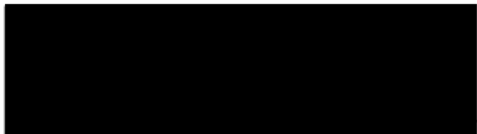
WHEREAS, pursuant to N.C. Gen. Stat. § 58-2-70(g), the Commissioner of Insurance and the Department have the express authority to negotiate a mutually acceptable agreement with any person as to the status of the person's license or certificate or as to any civil penalty or restitution; and

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

1. Immediately upon his signing of this document, Mr. Miller shall pay a **civil penalty of \$1,000.00** 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." Mr. Miller shall send the civil penalty by certified mail, return receipt requested, to the Department simultaneously with the return of this Agreement, signed by Mr. Miller. The civil penalty and the signed Agreement must be received by the Department no later than **August 1, 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. Mr. Miller shall obey all laws and regulations applicable to all licenses issued to him.
3. Mr. Miller enters into this Agreement freely and voluntarily and with knowledge of his right to have an administrative hearing on this matter. Mr. Miller understands that he may consult with an attorney prior to entering into this Agreement.
4. This Agreement does not in any way affect the Department's disciplinary power in any future follow-up examinations of Mr. Miller, or in any other cases or complaints involving Mr. Miller.
5. The parties to this Agreement agree that this Agreement shall have the full force and

- 6. 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.
- 7. This Settlement Agreement shall become effective when signed by Mr. Miller and the Department.

N.C. Department of Insurance



By: Keny Miller
License No. 0017332749



By: Marty Sumner
Deputy Commissioner

Date: 8-2-19

Date: 8/6/19