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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
FRED ONGWAE
LICENSE NO. 0017534725

VOLUNTARY SETTLEMENT
AGREEMENT

NOW COME, Fred Ongwae (hereinafter "Mr. Ongwae") 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, Mr. Ongwae currently holds a resident producer's license with authority for Life, Accident & Health or Sickness, Property and Casualty lines of insurance issued by the Department; and

WHEREAS, N. C. Gen. Stat. § 58-33-46(a)(4) provides that the Commissioner may place on probation, suspend, revoke, or refuse to renew any license issued under Article 33 of Chapter 58 of the General Statutes of NC for improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business; and

WHEREAS, 11 NCAC 04.0429 provides that the accounting records maintained by agents, brokers, and limited representatives shall be separate and apart from any other business records and demonstrate at all times that collected funds due to insurers and return premiums due to policyholders are available at all times; and

WHEREAS, N. C. Gen. Stat. § 58-2-185 provides that all companies, agents, or brokers doing any kind of insurance business in this State must make and keep a full and correct record of the business done by them, showing the number, date, term, amount insured, premiums, and the persons to whom issued, of every policy or certificate or renewal. Information from these

records must be furnished to the Commissioner on demand, and the original books and records shall be open to the inspection of the Commissioner when demanded; and

WHEREAS, N. C. Gen. Stat. § 58-2-195 (b) provides that every insurance agency transacting business in this State shall at all times have appointed some person employed or associated with such agency who shall have the responsibility of seeing that such records and reports as are required by law are kept and maintained; and

WHEREAS, N. C. Gen. Stat. § 58-33-46(a)(8) provides that the Commissioner may place on probation, suspend, revoke, or refuse to renew any license issued under Article 33 of Chapter 58 of the General Statutes of NC, for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere; and

WHEREAS, a compliance check was made on Global Select Insurance, LLC, an agency owned by Fred Ongwae, a licensed agent, on April 26, 2019. The original review was conducted on April 30, 2018; and

WHEREAS, during the initial agency review, the examiners observed that the agency had a combined bank account that showed two (2) negative balances on May 31, 2017 and October 20, 2017 indicating that monies were not available to pay carriers; and

WHEREAS, the examiners recommended that Mr. Ongwae open a separate premium-only account, and Mr. Ongwae submitted a corrective action plan dated May 20, 2018 wherein one account would be used strictly for commissions and another to be used strictly for premium; and

WHEREAS, the examiners returned on April 26, 2019 to conduct a compliance check and found that Mr. Ongwae had not set up a premium only account and had continued to deposit premiums in the combined account; and

WHEREAS, the examiners reviewed the combined bank statements for the past nine (9) months and observed negative balances and \$385.00 in NSF fees, reflecting commingling and misappropriation of monies owing to insurers.

WHEREAS, Mr. Ongwae did not keep copies of the deposit tickets, did not reconcile his receipts to deposits, and could not provide copies of his 2018 and 2019 company transmittal reports in violation of N. C. Gen. Stat. §§ 58-33-46(a)(8) and 58-2-195 (b); and

WHEREAS, the audit made by the Department support findings of violations of N. C. Gen. Stat. §§ 58-33-46(a)(4) and (8), 58-2-185, 58-2-195 (b), and 11 NCAC 04.0429, a basis for suspension and/or revocation of Mr. Ongwae's producer's license; and

WHEREAS, Mr. Ongwae was required to submit, and submitted a corrective action plan dated September 26, 2019, to assure non-reoccurrence of the violations and problems found during the audit; and

WHEREAS, North Carolina General Statute § 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, Mr. Ongwae has agreed to settle, compromise, and resolve the matters referenced in this Agreement on behalf of himself, and the Department has agreed not to pursue additional penalties, sanctions, remedies, or restitution based on these matters against Mr. Ongwae; 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, Mr. Ongwae and the Department hereby agree to the following:

1. Immediately upon the signing of this Agreement, Mr. Ongwae shall pay a civil penalty of **\$300.00** 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." Mr. Ongwae 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 12, 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 public schools.
2. Mr. Ongwae, in his corrective action plan agreed: (1) to no longer use a combined bank account and designate a specific account for premiums to avoid commingling and assure that collected funds due to insurers and return premiums due to policyholders are available at all times, and maintain a minimum balance therein of \$300.00; (2) to process transmittal records daily and reconcile them with bank receipts daily; (3) to attach copies of deposit tickets to agency receipts given to customers (4) to institute filing systems to assure that all agency records will be available to the Commissioner on demand; the Department reserves the right to make any follow up examinations of Mr. Ongwae's agency without prior to notice to assure compliance; and any non-adherence to this requirement by Mr. Ongwae shall constitute a violation of an Order of the Commissioner pursuant to Paragraph No. 5. below; and

3. This Agreement does not in any way affect the Department's disciplinary power in any future examination of Mr. Ongwae or in any other complaints involving Mr. Ongwae.
4. Mr. Ongwae enters into this Agreement, on behalf of himself, freely and voluntarily and with the knowledge of his right to have an administrative hearing on this matter. Mr. Ongwae understands he may consult with an attorney prior to entering into this Agreement.
5. The parties to this Agreement agree that this Agreement shall have the full force and effect of an Order of the Commissioner. Mr. Ongwae understands that N.C.G.S. § 58-33-46(a)(2) provides that a producer's license may be revoked for violating an Order of the Commissioner.
6. This Agreement, when finalized, will be a public record and will **not** be held confidential by the Department. Following the execution of this Agreement, any and all licenses issued by the Department to Mr. Ongwae shall reflect that Regulatory Action has been taken against him. 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 routinely provides copies of voluntary settlement agreement to all companies that have appointed the licensee.
7. The parties have read and understand this Agreement and agree to abide by the terms and conditions stated herein.
8. 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: Fred Ongwae
License No. 0017534725


By: Angela Hatchell
Deputy Commissioner

Date: 11/12/2019

Date: 11/20/19