

**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
RUSS MATTHEW PUGH,
(NPN 8393682)**

**VOLUNTARY SETTLEMENT
AGREEMENT**

NOW COME Russ Matthew Pugh ("Bondsman") and the North Carolina Department of Insurance ("Department") and voluntarily and knowingly enter into the following Voluntary Settlement Agreement ("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, Bondsman holds a surety bail bondsman's license (hereinafter, the "License") issued by the Department; and

WHEREAS, on August 19, 2018, bond was set for defendant Thomas William Imschweiler in *State v. Imschweiler*, 18 CR 050561 (Currituck Co., NC) in the amount of \$700,000 ("Imschweiler Bond Amount"); and

WHEREAS, on November 19, 2018, Bondsman posted a \$100,000 bond in partial satisfaction of the Imschweiler Bond Amount ("Bondsman's Imschweiler Bond") for which the surety was Allegheny Casualty Company; and

WHEREAS, the balance of the Imschweiler Bond Amount split among a series of other bonds issued by eight bondsmen in Currituck County, including Bondsman Samuel Congleton, who posted a \$25,000 bond in partial satisfaction of the Imschweiler Bond Amount for which the surety was also Allegheny Casualty Company; and

WHEREAS, the Allegheny Casualty Company Power of Attorney on Bondsman's Imschweiler Bond states that "Stacking of Powers is strictly prohibited. No more than one power from this Surety may be used to post any one bail amount;" and

WHEREAS, the Affidavit of Surety in Bondsman's Imschweiler Bond states that Bondsman was promised a \$5,000 premium for Bondsman's Imschweiler Bond; and

WHEREAS, N.C. Gen. Stat. § 58-71-80(a)(5) provides in relevant part that the Commissioner may deny, place on probation, suspend or revoke a bail bondsman's license for "[f]raudulent, coercive, or dishonest practices in the conduct of business or demonstrating incompetence, untrustworthiness, or financial

WHEREAS, as a result of the stacking of bonds with Powers of Attorney for which the surety was Allegheny Casualty Company that were issued for the Imschweiler Bond Amount by Bondsman and Samuel Congleton, the Power of Attorney on the Bondman's Imschweiler Bond was void and constitutes

a [f]raudulent, coercive, or dishonest practice” and “incompetence, untrustworthiness, or financial irresponsibility” by Bondsman in the conduct of his bail bond business in violation of N.C. Gen. Stat. § 58-71-80(a)(5); and

WHEREAS, 11 NCAC 13 .0515 provides:

Whenever a fee is received by a bail bondsman a receipt shall be furnished to the defendant. Copies of all receipts issued shall be kept by the bail bondsman. All receipts issued must:

- (1) be prenumbered by the printer and used and filed in consecutive numerical order,
- (2) show the name and address of the bail bondsman,
- (3) show the amount and date paid,
- (4) show the name of the person accepting payment,
- (5) show the total amount of the bond for which the fee is being charged and the name of the defendant; and

WHEREAS, N.C. Gen. Stat. § 58-71-167 provides, in relevant part, that in any case where some portion of the bond premium payments are deferred, a written memorandum of agreement between the principal and surety, signed by the defendant and bondsman or one of the bondsman’s agents and dated at the time the agreement is made, shall be kept on file by the surety and shall contain the following information:

- (1) The amount of the premium payment deferred or not yet paid at the time the defendant is released from jail.
- (2) The method and schedule of payment to be made by the defendant to the bondsman, which shall include the dates of payment and amount to be paid on each date.
- (3) That the principal is, upon the principal’s request, entitled to a copy of the memorandum; and

WHEREAS, in violation of N.C. Gen. Stat. § 58-71-167, Bondsman failed to create and maintain a memorandum of agreement for the deferred premium payment he accepted for Bondsman’s Imschweiler Bond; and

WHEREAS, N.C. Gen. Stat. § 58-71-168 provides:

All records related to executing bail bonds, including bail bond registers, monthly reports, receipts, collateral security agreements, and memoranda of agreements, shall be kept separate from records of any other business and must be maintained for not less than three years after the final entry has been made; and

WHEREAS, in violation of 11 NCAC 13 .0515 and N.C. Gen. Stat. § 58-71-168, Bondsman failed to create and maintain a receipt for the premium payment he accepted for Bondsman’s Imschweiler Bond; and

WHEREAS, N.C. Gen. Stat. § 58-71-80(a)(7) provides in relevant part that the Commissioner may deny, place on probation, suspend or revoke a bail bondsman’s license for “[f]ailure to comply with or violation of the provisions of this Article or of any order, subpoena, rule or regulation of the Commissioner or person with similar regulatory authority in another jurisdiction...”; and

WHEREAS, N.C. Gen. Stat. § 58-71-80(a)(14b) provides in relevant part that the

Commissioner may deny, place on probation, suspend or revoke a bail bondsman's license for "[v]iolation of (i) 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, Bondsman's violations described above of N.C. Gen. Stat. §§ 58-71-80(a)(5), 58-71-167, 58-71-168 and 11 NCAC 13 .0515 violate N.C. Gen. Stat. §§ 58-71-80(a)(7) and 58-71-80(a)(14b); and

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

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

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

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

1. Immediately upon signing this Agreement, Bondsman shall pay a civil penalty of **One Thousand Five Hundred Dollars and No Cents (\$1,500.00)** 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." Bondsman shall remit the civil penalty by certified mail, return receipt requested (attention: Keisha Burch, BBRD), to the Department along with the original of this Agreement bearing Bondsman's signature. The civil penalty and the signed Agreement must be received by the Department no later than December 6, 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. Bondsman shall attend a Pre-Licensing Education (PLE) course certified by the Department in lieu of existing continuing education requirements for the 2019-2020 renewal period, which training shall be completed prior to December 31, 2019. Evidence of attendance at this PLE shall be provided to the Department (attention Keisha Burch, BBRD) immediately following the completion of the PLE.
3. Bondsman shall comply with all of the provisions of Chapter 58 of the North Carolina General Statutes and of Title 11 of the North Carolina Administrative Code that are applicable to Bondsman.
4. The Parties agree that this Agreement shall have the full force and effect of an Order of the Commissioner. Bondsman understands that N.C. Gen. Stat. § 58-71-80(a)(7) provides that Bondsman's Licenses may be revoked for violating an Order of the Commissioner.
5. Bondsman enters into this Agreement freely and voluntarily and with knowledge of Bondsman's right to have an administrative hearing regarding this matter. Bondsman understands that Bondsman may consult with an attorney prior to entering into this

Agreement.

6. This Agreement constitutes a complete settlement of all administrative penalties against Bondsman for the acts, policies or practices expressly addressed in this Agreement. Except as to the acts, policies or practices expressly addressed herein, this Agreement does not in any way affect the Department's disciplinary power in any future examination of Bondsman or in any other complaints involving Bondsman. In the event that Bondsman fails to comply with this Agreement or otherwise fails to comply with the laws and rules applicable to Bondsman, the Department may take any administrative or legal action it is authorized to take.
7. This Agreement, when finalized, will be a public record and is not confidential. 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. Following the execution of this Agreement, any and all licenses issued by the Department to Bondsman shall reflect that Regulatory Action has been taken against Bondsman. The Department routinely provides copies of voluntary settlement agreements to all companies that have appointed the licensee.
8. Bondsman understands and agrees that, if a state or federal regulator other than the Department has issued a permit or license to Bondsman, that regulator may require Bondsman to report this administrative action to it. Bondsman understands and agrees that the Department cannot give Bondsman legal advice as to the specific reporting requirements of other state or federal regulators.
9. This Agreement shall become effective when signed by Bondsman and the Department.

[Redacted Signature]

Russ Matthew Pugh

Date: 12-03-2019

NORTH CAROLINA DEPARTMENT OF INSURANCE

By: [Redacted Signature]

Marty Sumner
Senior Deputy Commissioner

Date: 12/13/19