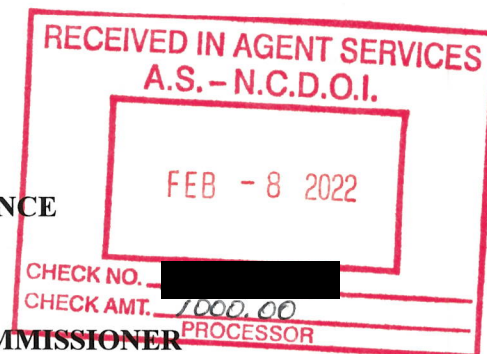


**NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA**



**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**BEFORE THE COMMISSIONER
OF INSURANCE**

**IN THE MATTER OF
THE LICENSURE OF
KEVIN WHITLEY
LICENSE NO. 0007095405**

**VOLUNTARY SETTLEMENT
AGREEMENT**

NOW COME, Kevin Whitley (hereinafter “Mr. Whitley”) and the Agent Services Division of the N.C. Department of Insurance (hereinafter “Agents Services Division”), and hereby voluntarily and knowingly enter into the following Voluntary Settlement Agreement (hereinafter “this Agreement”).

WHEREAS, the Agent Services Division has the authority and responsibility for enforcement of the insurance laws of this State, and for regulating and licensing insurance agents; and

WHEREAS, Mr. Whitley currently holds a Resident Producer’s license with authority for Life, Accident & Health or Sickness, Property and Casualty lines of insurance and a Resident Medicare Supplement Long-Term Care Insurance license issued by the Department; and

WHEREAS, North Carolina General Statute § 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, North Carolina General Statute § 58-33-85, among other things, provides that that no insurer, agent, broker, or limited representative shall pay, allow, or give, or offer to give, directly or indirectly, as an inducement to insurance any valuable consideration or inducement whatever, not specified in the policy of insurance; and

WHEREAS, N.C. Gen. Stat. § 58-2-185 provides that all companies, agents, or brokers doing any kind of business in this State must make and keep a full and correct record of the business done by them, and such information must be furnished to the Commissioner on demand, and the original books of records shall be open to the inspection of the Commissioner when demanded; and

WHEREAS, 11 NCAC 06A .0811 SANCTIONS FOR NONCOMPLIANCE subsection(b)(3) provides: The Commissioner may suspend, revoke, or refuse to renew a license for refusing to cooperate with Department employees in an investigation or inquiry; and

WHEREAS, a complaint was made to the Criminal Investigation Division of the N.C. Department of Insurance on July 16, 2021 by Ms. Caroline Buchanan, who indicated that she had recently partnered with Ms. Kristen Martin in a business arrangement, Momentum Yoga and Wellness. Ms. Martin had operated the business since 2019 when she took over the business and was given Mr.

Whitley's name as the agent who had written insurance coverage for the business. Mr. Whitley at that time provided Ms. Martin a copy of the certificate of insurance in force at that time. According to Ms. Buchanan, Ms. Martin assumed she was covered, even though she had not paid any premium at the time. Mr. Whitley provided Ms. Martin with another certificate of insurance in 2020, and again did not charge, or collect any premium from Ms. Martin; and

WHEREAS, upon becoming a co-owner, Ms. Buchanan requested a copy of the actual policy. Mr. Whitley informed Ms. Buchanan that while the policy renewed in the agency management system it did not with the insurer, but that he was not aware of the error. Mr. Whitley attached a new policy and offered to take care of the premium for the business; and

WHEREAS, Mr. Whitley was requested to provide documentation from the insurer of payment of the 2019 premium, who paid it and how it was paid as well as a copy of the original policy issued by the insurer. Mr. Whitley provided a copy of the payment history for 2019 and a policy with an effective date of December 31, 2018, but did not provide confirmation of the identity of the insurer, the name of the person who actually paid the premium, and direct documentation from the insurer of the identity of the person who paid the premium; and

WHEREAS, by offering to pay the premium for Momentum Yoga and Wellness, Mr. Whitley violated the provisions of N.C. Gen. Stat. § 58-33-85(a); by not providing insurance policy information requested by the Agent Services Division, Mr. Whitley was in violation of the provisions of N.C. Gen. Stat. 58-2-185; and by not cooperating with the Agent Services Division in providing information that was required in the investigation, Mr. Whitley was in violation of the provisions of 11 NCAC 06A.0811(b)(3); and

WHEREAS, such actions on the part of Mr. Whitley were reflective and in violation of the provisions of N.C. Gen. Stat. § 58-33-46(a) (8); 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, N. C. Gen. Stat. § 58-2-70 provides that whenever the Commissioner has reason to believe that any person has violated any law that would subject the license or certification of that person to suspension or revocation, the Commissioner is authorized, in lieu of a hearing, to negotiate a mutually acceptable agreement as to the status of the person's license or certificate or to any civil penalty or restitution; and

WHEREAS, Mr. Whitley has agreed to settle, compromise, and resolve the matters referenced in this Agreement on behalf of himself, and the Agent Services Division has agreed not to pursue additional civil ramifications, including penalties, sanctions, remedies, or restitution based on these matters against Mr. Whitley; and

WHEREAS, the parties to this Agreement mutually wish to resolve this matter by consent before the Agent Services Division 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. Whitley and the Agent Services Division hereby agree to the following:

1. Immediately upon the signing of this Agreement, Mr. Whitley shall pay a civil penalty of **\$1,000.00** to the Agent Services Division. 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. Whitley shall remit the civil penalty by certified mail, return receipt requested, to the Agents Services Division along with a copy of this signed Agreement. The civil penalty and the signed Agreement must be received by the Agents Services Division no later than **February 08, 2021**. 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 Agent Services Division's disciplinary power in any future examination of Mr. Whitley or in any other complaints involving Mr. Whitley.
3. Mr. Whitley 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. Whitley understands he 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. Mr. Whitley 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.
5. This Agreement, when finalized, will be a public record and will **not** be held confidential by the Agent Services Division. Following the execution of this Agreement, all licenses issued by the Agent Services Division to Mr. Whitley shall reflect that Regulatory Action has been taken against him. The Agent Services Division 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 Agent Services Division routinely provides, upon request, 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 Agent Services Division has issued an occupational or professional license to you, that regulator may require you to report this administrative action to it. The Agents Services Division cannot give you legal advice as to the specific reporting requirements of other state or federal regulators.

**N.C. Department of Insurance
Agent Services Division**


By: Kevin Whitley
License No 0007095405


By: Angela Hatchell
Deputy Commissioner

Date: 2/4/22

Date: 2/8/2022