

**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
JAMES NEWTON CALLAHAN
(NPN 8392465)**

**VOLUNTARY SETTLEMENT
AGREEMENT**

NOW COME James Newton Callahan (hereinafter "Bail Bondsman") and the North Carolina Department of Insurance (hereinafter "Department"), and hereby voluntarily and knowingly enter into the following Voluntary Settlement Agreement (hereinafter "Agreement");

WHEREAS, the Department has the authority and responsibility for regulating and licensing professional bail bondsmen, surety bail bondsmen, and bail bond runners; and

WHEREAS, Bail Bondsman currently holds a license as a professional bail bondsman and a surety bail bondsman issued by the Department; and

WHEREAS, Bail Bondsman wrote two bonds totaling \$75,000.00 using both his professional and surety bail bond licenses for a criminal defendant, Roger Steven Goins (hereinafter "Goins") on or around May 5, 2016 and charged bonds premiums totaling \$6,650.00; and

WHEREAS, Bail Bondsman and Goins signed a Memorandum of Agreement containing the terms of their agreement, which was not done with a form registered with, and approved by, the Commissioner of Insurance (hereinafter "Commissioner"); and

WHEREAS, on or around May 5, 2016, Bail Bondsman collected \$1,400.00 in cash as payment towards the bond premium with the remainder of the premium due on or before June 1, 2016, and also agreed to hold a signed title to a 1997 Harley Davidson as collateral; and

WHEREAS, Bail Bondsman did not issue a receipt for the signed 1997 Harley Davidson title that was being held as collateral.

WHEREAS, Bail Bondsman did not list the title to the 1997 Harley Davidson as collateral in the affidavit sections of the Appearance Bond for Pretrial Release forms; and

WHEREAS, on or after June 1, 2016, when Bail Bondsman was not paid the balance owing on the bonds, he did not seek to amend or modify the Memorandum of Agreement between him and Goins; and

WHEREAS, on or around September 2016, Bail Bondsman came into physical possession of the 1997 Harley Davidson which he has continuously held as collateral on the bonds without ever issuing a collateral receipt and, after the subsequent surrender of the Defendant, for which he has not issued or sought to arrange for a purchase agreement or bill of sale; and

WHEREAS, at the time of the receipt of the 1997 Harley Davidson, Bail Bondsman did not seek to amend the Memorandum of Agreement with Goins; and

WHEREAS, on or around March 21, 2017, Goins failed to appear for a court date, and Bail Bondsman along with Goin's mother, Carol Ayers (hereinafter "Ayers"), who wrote an accommodation bond on his behalf, were seeking to find Goins' whereabouts for the purpose of surrendering him; and

WHEREAS, Bail Bondsman alleges, and Ayers has expressly denied, that they both agreed to issue a reward of \$1,000.00 paid by Ayers for information leading to the location and surrender of Goins; and

WHEREAS, Bail Bondsman allegedly paid \$1,000.00, without obtaining a signed receipt, to a confidential informant following the arrest and surrender of Goins to the custody of the local sheriff; and

WHEREAS, Bail Bondsman obtained repayment of the \$1,000.00 from Ayers without giving her a receipt for her payment; and

WHEREAS, Ayers has stated that she felt coerced into making this \$1,000.00 payment to Bail Bondsman in addition to the bond premium; and

WHEREAS, N.C. Gen. Stat. § 58-71-167 provides that any agreement between a principal and a surety where a bond premium payment is to be deferred or paid after the defendant is released from custody shall be made in a written memorandum of agreement, and must contain the amount of the premium deferred or not yet paid and the method and schedule of payments, and any subsequent modification thereto must be made in writing, signed, dated and kept on file; and

WHEREAS, Bail Bondsman violated N.C. Gen. Stat. § 58-71-167 by failing to properly document the bond premium payment details between himself and Goins and to update the memorandum upon the change or modification of the agreement; and

WHEREAS, 11 NCAC 13.0512(j) requires that all agreements and contracts between a bondsman and a defendant have a form number, the license number of the bail bondsman, and be submitted to the Department and approved prior to being used by the Bondsman; and

WHEREAS, Bail Bondsman violated 11 NCAC 13.0512(j) by failing to have a proper form number on his Memorandum of Agreement, failing to have his proper license number on his Memorandum of Agreement, and failing to submit the form to the Department and have it

approved prior to his use of the Memorandum of Agreement; and

WHEREAS, N.C. Gen. Stat. § 58-71-100 requires that a bail bondsman issue a written receipt for any collateral that he collects which shall give a full description of the collateral received; and

WHEREAS, Bail Bondsman violated N.C. Gen. Stat. § 58-71-100 when he failed to issue a receipt when he collected the signed title to the 1997 Harley Davidson motorcycle; and

WHEREAS, Bail Bondsman violated N.C. Gen. Stat. § 58-71-100 when he failed to issue a receipt when he received physical custody of the 1997 Harley Davidson motorcycle; and

WHEREAS, N.C. Gen. Stat. § 58-71-140(d)(4) provides that a Bondsman shall file with the Clerk of Court an affidavit on a form that includes the name of the person from whom collateral security is received and the amount of the collateral security listed in detail; and

WHEREAS, Bail Bondsman violated N.C. Gen. Stat. § 58-71-140(d)(4) when he failed to include the required information on the affidavit filed with the Clerk of Court relating to the signed title to the 1997 Harley Davidson motorcycle that he took as collateral at the time of executing the bond; and

WHEREAS, Bail Bondsman's license is subject to possible revocation or suspension under N.C. Gen. Stat. § 58-71-80(a)(5) for fraudulent, coercive, or dishonest practices in the conduct of business by apparently coercively seeking repayment of a \$1,000.00 bounty from Ayers that Bondsman paid to a confidential informant for information leading to the arrest of Goins; and

WHEREAS, Bail Bondsman's license is subject to possible revocation or suspension under N.C. Gen. Stat. § 58-71-80(a)(7) for failure to comply with the provisions of Article 71 of Chapter 58 of the North Carolina General Statutes or the rules of the Commissioner; and

WHEREAS, Bail Bondsman's license is subject to possible revocation or suspension under N.C. Gen. Stat. § 58-71-80(a)(8) for conduct that demonstrates incompetency, financial irresponsibility, or untrustworthiness; and

WHEREAS, Bail Bondsman's license is subject to possible revocation or suspension under N.C. Gen. Stat. § 58-71-80(a)(14b) for the foregoing violations of laws governing bail bonding or insurance of this State; 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 issued by the Department, or as to any civil penalty or restitution; and

WHEREAS, the parties to this Agreement desire to resolve this matter by agreement to avoid an administrative hearing regarding this matter; and

WHEREAS, Bail Bondsman has had no previous administrative actions or discipline taken against his professional bondsman's license or his surety bondsman's license; and

WHEREAS, the parties to this Agreement 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 Bail Bondsman hereby agree to the following:

1. Immediately upon signing this agreement, Bail Bondsman shall pay a civil penalty of **One Thousand Five Hundred Dollars (\$ 1,500.00)** to the Department. The form of payment shall be 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." Bail Bondsman shall remit the civil penalty by certified mail, return receipt requested, to the Department along with the original of this Agreement bearing the signature of Bail Bondsman. The civil penalty and the signed Agreement must be received by the Department no later than November 19, 2018. 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. Bail Bondsman acknowledges that he has returned the sum he charged to Ayers for an alleged bounty on Goins, an amount of \$1,000.00. Personnel with the Department have verified that the individual has received these funds.
3. Bail Bondsman shall comply with all provisions of Chapter 58 of the North Carolina General Statutes and Title 11 of the North Carolina Administrative Code that are applicable to Bail Bondsman.
4. The parties to this Agreement agree that this Agreement shall have the full force and effect of an Order of the Commissioner. Bail Bondsman understands that N.C. Gen. Stat. § 58-71-80(a)(7) provides that Bail Bondsman's license may be revoked for violating an Order of the Commissioner.
5. Bail Bondsman enters into this Agreement freely and voluntarily and with knowledge of Bail Bondsman's right to have an administrative hearing regarding this matter. Bail Bondsman understands that Bail Bondsman may consult with an attorney prior to entering into this Agreement.
6. This Voluntary Settlement Agreement constitutes a complete settlement of all administrative penalties against Bail Bondsman for the acts, policies or practices expressly addressed in this Voluntary Settlement 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 Bail Bondsman, or in any other complaints involving Bail Bondsman. In the event that Bail Bondsman fails to comply with this Agreement or otherwise fails to comply with the laws and rules applicable to Bail 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 to 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 Bail Bondsman shall reflect that Regulatory Action has been taken against Bail Bondsman.

8. Bail Bondsman understands and agrees that if a state or federal regulator other than the Department has issued a permit or license to Bail Bondsman, that regulator may require Bail Bondsman to report this administrative action to it. Bail Bondsman understands and agrees that the Department cannot give Bail Bondsman legal advice as to the specific reporting requirements of other state or federal regulators.

9. This Agreement shall become effective when signed by Bail Bondsman and the Department.



James Newton Callahan

Date: 11-9-18

North Carolina Department of Insurance

By: 

Marty Sumner
Senior Deputy Commissioner

Date: 11/27/18