

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

**STATE OF NORTH CAROLINA  
COUNTY OF WAKE**

**BEFORE THE COMMISSIONER  
OF INSURANCE  
Docket Number: D-1647**

**IN THE MATTER OF  
THE LICENSURE OF  
ZAID KAUDEYR**

**ORDER AND FINAL AGENCY  
DECISION**

This matter was heard on October 31, 2012 by the undersigned Hearing Officer, as designated by the Commissioner of Insurance, pursuant to North Carolina General Statutes §§ 58-2-55, 58-2-70, 58-71-80, 58-71-85, 150B-38, 150B-40 and 11 N.C.A.C. 1.0401 et seq. and other applicable statutes and regulations. Petitioner, the Agent Services Division of the North Carolina Department of Insurance ["Agent Services"], was represented by Assistant Attorney General Anne Goco Kirby. Respondent Zaid Kaudeyr did not appear at the hearing.

After careful consideration of the evidence and arguments presented, and based upon the record as a whole, the undersigned Hearing Officer hereby renders the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. The Department has the authority and responsibility for enforcing compliance with Article 70 of Chapter 58 and for regulating and licensing surety bondsmen.
2. Respondent holds a Surety Bail Bondsman license issued by the Department. Respondent operates a bail bonding business named 1<sup>st</sup> Choice Bail Bonding.
3. On October 26, 2011, an administrative hearing was held before the undersigned Hearing Officer. That case was captioned In the Matter of the Licensure of Zaid Kaudeyr, Docket Number D-1600. On November 28, 2011, the undersigned sent a letter to Respondent informing him that after considering the evidence and arguments presented at the October 26, 2011 hearing, the undersigned had decided that grounds for revocation of Respondent's license existed. However, the undersigned further informed Respondent that in the exercise of his discretion, he had also decided that Respondent should be given the opportunity to avoid revocation of his license by refunding \$3,580 in premiums to Isaac Oliver and paying a penalty. Thus, the

November 28, 2011 letter advised Respondent that the undersigned would delay entry of any order in the matter until January 4, 2012 and that the undersigned would enter an order imposing a \$600.00 penalty against Respondent in lieu of revoking his license if Respondent refunded the \$3,580 in premiums by official bank check or money order payable to Isaac Oliver and provided the undersigned with documentation proving that Respondent had made such refund by no later than January 4, 2012.

4. Respondent did not provide any response to the Hearing Officer's November 28, 2011 letter. Thus, on January 10, 2012, the Hearing Officer sent a letter to Agent Services' counsel instructing her to prepare a proposed order revoking Respondent's license.

5. Prior to the submission of a proposed revocation order by the Department's counsel, Respondent contacted the Hearing Officer and informed him that Respondent had the money to make the refund, but was unable to locate Isaac Oliver. Acting upon the Hearing Officer's instructions, Agent Services' counsel contacted Respondent to work out an arrangement for Respondent to refund the premium. Pursuant to the agreement reached between Agent Services' counsel and the Respondent, Respondent was to: (a) send a money order or certified check for the \$3,580 made payable to Isaac Oliver via certified mail to the Craven County Correctional Institution where Mr. Oliver was incarcerated and (b) provide documentation to Agent Services proving that he had made such refund by no later than January 20, 2012.

6. Respondent did not provide documentation of the refund by January 20, 2012. Thus, Agent Services' counsel submitted a proposed revocation order to the Hearing Officer. On January 30, 2012, Respondent sent an e-mail to Agent Services' counsel with an attached copy of a cashier's check for \$3,580 made payable to Isaac Oliver. In his e-mail, Respondent stated that he would be dropping the refund check off at the prison that morning. Agent Services' counsel forwarded Respondent's e-mail to the Hearing Officer.

7. By letter to Respondent dated January 31, 2012, the Hearing Officer informed Respondent that he had received Respondent's January 30, 2012 e-mail indicating that Respondent would be refunding the premium. The Hearing Officer further requested that Respondent provide him with a signed written confirmation that the refund had in fact been accomplished and an explanation of the reasons for the delay in refunding the money. This letter was to be submitted to the Hearing Officer and Department's counsel by no later than February 8, 2012.

8. On February 8, 2012, Respondent provided a letter in response to the Hearing Officer January 31, 2012 letter. By letter to Agent Services' counsel and Respondent dated February 9, 2012, the Hearing Officer acknowledged receipt of Respondent's letter and advised that since Respondent had confirmed making the refund, the Hearing Officer was requesting Agent Services' counsel to submit a draft proposed order imposing a monetary penalty of \$600.00.

9. On February 14, 2012, the Hearing Officer entered an Order and Final Agency Decision [Order] against Respondent in Docket #D-1600. The Order concluded that Respondent violated N.C.G.S. §§ 58-71-20 and 58-71-167 and 11 NCAC 13.0515. Although the Hearing Officer concluded that these violations constitute grounds for revoking or suspending Respondent's license, the Hearing Officer ordered the Respondent to pay a penalty of \$600.00 to the Department for his violations in lieu of revoking Respondent's license. The Order required that the penalty be paid to the Department by no later than March 22, 2012. The Order further informed Respondent that "pursuant to N.C.G.S. § 58-71-80(a)(7), failure to comply with this Order may result in the initiation of adverse administrative proceedings to revoke Mr. Kaudeyr's license."

10. On February 17, 2012, the Order was served on the Respondent via certified mail. Respondent never paid the penalty as required by the Order. On April 3 and 16, 2012, Steve Bryant, Complaint Analyst for the Department's Agent Services Division, called Respondent and left him a voicemail messages asking him to call him regarding the unpaid \$600.00 fine. Respondent did not return Mr. Bryant's April 3, 2012 phone call.

11. On April 16, 2012, Mr. Bryant sent Respondent an e-mail confirming his April 3 and 16, 2012 voicemail messages and informing Respondent that Agent Services would be scheduling an informal conference to discuss the matter of the unpaid fine. Respondent returned Mr. Bryant's call on April 16, 2012 and left a voice mail message for Mr. Bryant stating that he had lost his contract with First Community Insurance Company.

12. On April 18, 2012, Mr. Bryant e-mailed Respondent to inform him that Agent Services had scheduled a conference with him on April 30, 2012 at 2 p.m. Mr. Bryant also attached a letter to Respondent which informed him of the scheduled informal conference with Agent Services. In his e-mail, Mr. Bryant requested that Respondent inform Agent Services whether he intended to pay the fine and, if so, when he intended to pay the fine.

13. On April 20, 2012, Respondent spoke to Mr. Bryant on the telephone. Respondent told Mr. Bryant that he had lost his contract with First Community Insurance Company and Banker's Insurance Company and that he did not have the means to pay the fine. Respondent also stated that he was being evicted from his apartment and that he was having his mail forwarded to his girlfriend's address. Respondent told Mr. Bryant several times that he would be attending the April 30, 2012 informal conference. After speaking with Respondent on April 20, 2012, Mr. Bryant sent an e-mail to Respondent which confirmed the details of their conversation.

14. Respondent failed to appear for the informal conference on April 30, 2012. Later that day, Mr. Bryant called Respondent to find out why he did not attend. Respondent falsely stated that he had told Mr. Bryant on April 20, 2012 that he could not attend the conference due to his eviction. Mr. Bryant advised Respondent that Agent Services would initiate administrative proceedings to revoke his license for nonpayment of the \$600.00 penalty.

15. On September 24, 2012, the Hearing Officer signed the Notice of Hearing in this matter. On September 25, 2012, Agent Service's counsel attempted to serve the Notice on Respondent at his residential address of record as follows: 210 Shipman Road, Apt. Q-4, Havelock, NC 28532. The certified mail package was returned unclaimed. On October 5, 2012, the Department's counsel attempted to serve Respondent via federal express, signature required, at the same residential address of record. The federal express package was also returned.

16. On October 11, 2012, Mr. Bryant mailed a copy of the Notice to Respondent via first class mail at his residential address of record. The Notice was not returned by the US post office.

17. On October 25, 2012, Mr. Bryant spoke to the Respondent by telephone regarding the upcoming hearing scheduled for October 31, 2012. During this conversation, Respondent alleged that he was staying at his girlfriend's residence and that his mail was being forwarded to her residence. Respondent further alleged that he did not receive the notice mailed to his address of record. Mr. Bryant advised Respondent that the Notice was mailed to 210 Shipman Road, Apt. Q-4, Havelock because that was the address which Respondent gave on his June 2012 renewal application. Moreover, the proof of residency which Respondent later provided with his renewal application included a June 1, 2012 electric bill for that apartment and an August 28, 2012 motor vehicle tax receipt listing the Shipman Road apartment as his address. After speaking with Respondent on October 25, 2012, Mr. Bryant sent Respondent an e-mail confirming the details of their conversation.

18. On October 30, 2012, Respondent replied to Mr. Bryant's October 25, 2012 e-mail. In his reply, Respondent stated that he will not be able to make the hearing tomorrow October 31, 2012 "[d]ue to my lack of finances and inability to find a ride." Respondent further stated that "I pray the hearing could be moved to a later date . . . ."

#### CONCLUSIONS OF LAW

1. Respondent was properly served with the Notice of Hearing in this matter in accordance with N.C.G.S. § 58-2-69(e). The Department has personal jurisdiction over Respondent and subject matter jurisdiction in this matter.

2. 11 NCAC 1.0426 governs requests for continuance of a hearing. 11 NCAC 1.10426 (c) provides that a request for a continuance shall be granted upon a showing of good cause. Subsection (c) requires that such requests be made in writing to the hearing officer and served on all parties of record.

3. To the extent Respondent's October 30, 2012 e-mail to Mr. Bryant may be viewed as a request for a continuance, such request is denied as being untimely and failing to demonstrate

good cause for a continuance.


4. Respondent failed to pay the \$600.00 penalty required by the February 12, 2012 Order and Final Agency Decision [Order] in Docket #D-1600. Respondent's bail bondsman license should be permanently revoked pursuant to N.C.G.S. § 58-71-80(a)(7) for his violation of the Order.

Based on the foregoing Finding of Facts and Conclusions of Law, the Hearing Officer makes the following:

**ORDER**

Respondent's bail bondsman license is hereby permanently revoked.

This 16<sup>th</sup> day of November, 2012.

  
Stewart L. Johnson, Hearing Officer  
N.C. Department of Insurance  
1201 Mail Service Center  
Raleigh, NC 27699-1201

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this day served the foregoing ORDER AND FINAL AGENCY DECISION by first class mail, addressed as follows:

**Zaid Kaudeyr  
210 Shipman Road, Apt. Q-4  
Havelock, NC 28532**

This the 20<sup>th</sup> day of November, 2012.



Anne Goco Kirby  
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