

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

STATE OF NORTH CAROLINA

**BEFORE THE COMMISSIONER
OF INSURANCE**

COUNTY OF WAKE

**IN THE MATTER OF
THE LICENSURE OF
MARION E. LEWIS**

**ORDER AND FINAL AGENCY
DECISION
Docket Number: 1794**

THIS matter was heard on Thursday, April 28, 2016, by the undersigned Hearing Officer, designated by the Commissioner of Insurance (hereinafter "Commissioner") under N.C. Gen. Stat. §58-2-55, pursuant to a Notice of Hearing that was duly issued and served.

The North Carolina Department of Insurance Agent Services Division (hereinafter, "Agent Services") was represented by Assistant Attorney General M. Denise Stanford. Agent Services Bail Bond Administrator Simone Singleton testified on behalf of Agent Services.

Respondent Marion E. Lewis (hereinafter "Respondent"), was present and testified on his own behalf at the hearing. Respondent was not represented by counsel.

The Department offered into evidence Exhibits 1 through 44, and said documents were admitted into evidence.

Respondent offered into evidence Exhibits 1 through 3 and said documents were admitted into evidence.

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

Findings of Fact

1. Agent Services was unable to serve the initial Notice of Administrative Hearing which was issued on December 29, 2015. The Notice of Administrative Hearing was admitted into evidence as Exhibit 1.
2. At the request of the Agent Services, the hearing was continued on February 10, 2016. The Continuance Order was admitted into evidence as Exhibit 2B.
3. The hearing was rescheduled for April 28, 2016 at 10:00 a.m. The Scheduling Order was admitted into evidence as Exhibit 2A.

4. The Scheduling Order, the Continuance Order, and the Notice of Administrative Hearing were properly served on Respondent on March 16, 2016. The letter to the sheriff with attachments and the return of service by the sheriff showing service of the Scheduling Order, the Continuance Order, and the Notice of Administrative Hearing were admitted into evidence as Exhibits 2, 2A, 2B, 2C, and 3.

5. At all relevant times herein, Respondent held a Professional Bail Bondsman License, License number 0008393868. A copy of the Licensee Summary was admitted into evidence as Exhibit 4.

6. N.C. Gen. Stat. § 58-71-165 requires each professional bondsman to file with the Commissioner a written report in a form prescribed by the Commissioner regarding all bail bonds on which the bondsman is liable as of the first day of each month showing (i) each individual bonded, (ii) the date the bond was given, (iii) the principal sum of the bond, (iv) the State or local official to whom given, and (v) the fee charged for the bonding service in each instance. The written reports should be filed on or before the fifteenth day of each month.

7. Respondent's monthly written reports filed with the Commissioner between August 2013 and October 2014 were admitted into evidence as Exhibits 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19.

8. Respondent failed to file with the Commissioner the reports required pursuant to N.C. Gen. Stat. § 58-71-165 for the months of November and December 2014, and reports for the months of January, February, March, April, May, June, July, August, September, and October 2015. Letters sent to Respondent from the Department regarding the delinquent written reports were admitted into evidence as Exhibits 20, 21, 22, and 23.

9. Respondent failed to include the following bail bonds on his written reports to the Commissioner:

- a. Vance County for Keith Gill, file number 13 CR 702600;
- b. Guilford County for Alec Walton Bumgarner, file number 13 CR 717179;
- c. Granville County for Deborah Lynn Young, file number 12 CR 000505;
- d. Vance County for Ray Hargrove, Jr., file number 13 CR 052104;
- e. Vance County for Timothy Wayne Abbott, file number 12 CR 001315;
- f. Vance County for Derrick Vondell Small, file number 14 CR 050607;
- g. Vance County for Ladazsha Shanette Bullock, file number 14 CR 050641;
- h. Vance County for Jacob Danielle Parham, file number 12 CR 000178;
- i. Vance County for Ranesa Seaward, file number 13 CR 050171;
- j. Franklin County for Dwaine Edwin Strickland, file number 13 CR 700086;
and
- k. Granville County for Terrance Austin Bailey, file number 13 CR 001916.

Certified records for file number 13 CR 702600 were admitted into evidence as Exhibit 24.
Certified records for file number 13 CR 717179 were admitted into evidence as Exhibit 25.
Certified records for file number 12 CR 000505 were admitted into evidence as Exhibit 26.
Certified records for file number 13 CR 052104 were admitted into evidence as Exhibit 27.
Certified records for file number 12 CR 001315 were admitted into evidence as Exhibit 28.
Certified records for file number 14 CR 050607 were admitted into evidence as Exhibit 29.
Certified records for file number 14 CR 050641 were admitted into evidence as Exhibit 30.
Certified records for file number 12 CR 000178 were admitted into evidence as Exhibit 31.
Certified records for file number 13 CR 050171 were admitted into evidence as Exhibit 32.
Certified records for file number 13 CR 700086 were admitted into evidence as Exhibit 33.
Certified records for file number 13 CR 001916 were admitted into evidence as Exhibit 34.

10. Respondent listed the following bail bonds on his written report to the Commissioner, but failed to list the correct monetary amounts:

- a. Granville County, in the amount of \$195.00 for Shaquan Johnson, file number 13 CR 000927; and
- b. Granville County, in the amount of \$795.00 for Gregory Keith Stevenson, Jr., file number 13 CR 051094.

Certified records for file number 13 CR 000927 were admitted into evidence as Exhibit 35.
Certified records for file number 13 CR 051094 were admitted into evidence as Exhibit 36.

11. N.C. Gen. Stat. § 58-71-145 requires each professional bondsman acting as surety on bail bonds in this State to maintain a deposit of securities with and satisfactory to the Commissioner of a fair market value of at least one-eighth the amount of all bonds or undertakings written in this State on which he is absolutely or conditionally liable as of the first day of the current month. The amount of the deposit must be reconciled with the bondsman's liabilities as of the first day of the month on or before the fifteenth day of the month and the value of the deposit shall in no event be less than fifteen thousand dollars (\$15,000).

12. Pursuant to N.C. Gen. Stat. § 58-71-151, the securities deposited by a professional bondsman with the Commissioner shall be held in trust for the protection and benefit of the holder of bail bonds executed by or on behalf of the bondsman.

13. Pursuant to N.C. Gen. Stat. § 58-71-155, the professional bondsman shall grant to the Commissioner a power of attorney to sell or transfer any securities deposited, insofar as the sale or transfer is deemed necessary by the Commissioner, to pay any liability arising under a bond which purports to be given by the bondsman and execution has been issued against the bondsman pursuant to a judgment on the bond and the judgment has not been satisfied.

14. The Commissioner paid the following Writs of Execution with the securities deposited by Respondent to:

- a. Vance County, in the amount of \$559.27 for Keith Gill, file number 13 CR 702600;
- b. Guilford County, in the amount of \$1,105.08 for Alec Walton Bumgarner, file number 13 CR 717179;
- c. Granville County, in the amount of \$1,315.25 for Deborah Young, file number 12 CR 000505;
- d. Granville County, in the amount of \$1,075.74 for Reginald Lamont Lewis, file number 13 CR 052087;
- e. Granville County, in the amount of \$195.77 for Shaquan Johnson, file number 13 CR 000927;
- f. Vance County, in the amount of \$2,066.84 for Ray Hargrove, Jr., file number 13 CR 052104;
- g. Vance County, in the amount of \$856.80 for Timothy Wayne Abbott, file number 12 CR 001315;
- h. Vance County, in the amount of \$2,067.71 for Derrick Vondell Small, file number 14 CR 050607;
- i. Vance County, in the amount of \$1,061.36 for Ladazsha Shanette Bullock, file number 14 CR 050641;
- j. Granville County, in the amount of \$1,101.36 for Bobby Winstead, file number 14 CRS 051176;
- k. Vance County, in the amount of \$1,058.29 for Jacob Danielle Parham, file number 12 CR 000178;
- l. Durham County, in the amount of \$384.92 for Porsha Alexander, file number 11 CR 714016;
- m. Granville County, in the amount of \$3,118.67 for George Outlaw, file number 13 CRS 051707;
- n. Granville County, in the amount of \$795.00 for Gregory Keith Stevenson, Jr., file number 13 CR 051094;
- o. Vance County, in the amount of \$195.75 for Ranesa Seaward, file number 13 CR 050171;
- p. Franklin County, in the amount of \$875.26 for Dwaine Edwin Strickland, file number 13 CR 700086;
- q. Granville County, in the amount of \$2,113.41 for Marlon Harris, file number 10 CRS 002564; and
- r. Granville County, in the amount of \$565.00 for Terrance Austin Bailey, file number 13 CR 001916.

Certified records for file number 13 CR 052087 were admitted into evidence as Exhibit 37. Certified records for file number 14 CRS 051176 were admitted into evidence as Exhibit 38. Certified records for file number 11 CR 714016 were admitted into evidence as Exhibit 39. Certified records for file number 13 CRS 051707 were admitted into

evidence as Exhibit 40. Certified records for file number 10 CRS 002564 were admitted into evidence as Exhibit 41.

15. Pursuant to N.C. Gen. Stat. § 58-71-160, a professional bondsman whose security deposits with the Commissioner are, for any reason, reduced in value below the requirements of Article 71 of Chapter 58 in the North Carolina General Statutes, shall immediately upon receipt of a notice of deficiency from the Commissioner deposit such additional securities as are necessary to comply with the law. No professional bondsman shall sign, endorse, execute, or become surety on any additional bail bonds, or pledge or deposit any cash, check, or other security of any nature in lieu of a bail bond in any county in North Carolina until the professional bondsman has made such additional deposit of securities as required by the notice of deficiency.

16. Pursuant to N.C. Gen. Stat. § 58-71-160, on March 16, 2015, Agent Services sent a notice of deficiency to Respondent because the amount on deposit at that time had fallen below the \$15,000 minimum. Respondent was advised to immediately remedy the deficit. Respondent failed to remedy the deficit. A copy of the notice of deficiency was admitted into evidence as Exhibit 42.

17. Pursuant to N.C. Gen. Stat. § 58-71-160, on July 7, 2015, Agent Services sent a notice of deficiency to Respondent because the amount on deposit at that time had fallen below the \$15,000 minimum. Respondent was advised to immediately remedy the deficit. Respondent failed to remedy the deficit. A copy of the notice of deficiency was admitted into evidence as Exhibit 43.

18. As of November 20, 2015, the amount on deposit was \$8,482.48, well below the \$15,000 minimum set out in N.C. Gen. Stat. § 58-71-145. A copy of the printout showing the amount of deposit was admitted into evidence as Exhibit 44.

Conclusions of Law

1. This matter is properly before the Commissioner. The Commissioner has jurisdiction over the parties and the subject matter pursuant to Chapter 58 of the North Carolina General Statutes.

2. Respondent was properly served with the Notice of Administrative Hearing.

3. N.C. Gen. Stat. § 58-71-165 requires each professional bondsman to file with the Commissioner a written report in a form prescribed by the Commissioner regarding all bail bonds on which the bondsman is liable as of the first day of each month showing (i) each individual bonded, (ii) the date the bond was given, (iii) the principal sum of the bond, (iv) the State or local official to whom given, and (v) the fee charged for the bonding service in each instance. The written reports should be filed on or before the fifteenth day of each month.

4. Respondent violated N.C. Gen. Stat. § 58-71-165 by failing to file the required written reports with the Commissioner for the months of November and December 2014, and for the months of January, February, March, April, May, June, July, August, September, and October 2015.

5. Respondent violated N.C. Gen. Stat. § 58-71-165 by failing to include all bail bonds that he had written on the reports he filed with the Commissioner.

6. Respondent violated N.C. Gen. Stat. § 58-71-165 by failing to list the correct monetary amounts for bail bonds that he had written on the reports he filed with the Commissioner.

7. N.C. Gen. Stat. § 58-71-145 requires each professional bondsman acting as surety on bail bonds in this State to maintain a deposit of securities with and satisfactory to the Commissioner of a fair market value of at least one-eighth the amount of all bonds or undertakings written in this State on which he is absolutely or conditionally liable as of the first day of the current month. The amount of the deposit must be reconciled with the bondsman's liabilities as of the first day of the month on or before the fifteenth day of the month and the value of the deposit shall in no event be less than fifteen thousand dollars (\$15,000).

8. Respondent violated N.C. Gen. Stat. § 58-71-145 by failing to maintain a deposit of securities of no less than fifteen thousand dollars (\$15,000).

9. Pursuant to N.C. Gen. Stat. § 58-71-160, a professional bondsman whose security deposits with the Commissioner are, for any reason, reduced in value below the requirements of Article 71 of Chapter 58 of the North Carolina General Statutes, shall immediately upon receipt of a notice of deficiency from the Commissioner deposit such additional securities as are necessary to comply with the law. No professional bondsman shall sign, endorse, execute, or become surety on any additional bail bonds, or pledge or deposit any cash, check, or other security of any nature in lieu of a bail bond in any county in North Carolina until the professional bondsman has made such additional deposit of securities as required by the notice of deficiency.

10. Respondent violated N.C. Gen. Stat. § 58-71-160 by failing to deposit additional securities upon receipt of the notices of deficiency from the Commissioner.

11. N.C. Gen. Stat. § 58-71-80(a)(7) authorizes the Commissioner to take disciplinary action against a license holder for failing to comply with or violating the provisions of Article 71 of Chapter 58 or of any order, subpoena, rule or regulation of the Commissioner or person with similar regulatory authority in another jurisdiction.

12. Respondent's violations of N.C. Gen. Stat. §§ 58-71-145, 58-71-160, 58-71-165 found in Article 71 of Chapter 58 authorize the Commissioner to take disciplinary action against his Professional Bail Bondsman license pursuant to N.C. Gen. Stat. § 58-71-80(a)(7) for

violating the provisions of Article 71 of Chapter 58 of the North Carolina General Statutes.

Order

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Respondent's Professional Bail Bondman License is hereby **REVOKED**.

This the 11th day of July, 2016.



Stewart Johnson, Hearing Officer
North Carolina Department of Insurance

APPEAL RIGHTS: This Order may be appealed to Superior Court within 30 days of receipt, as set forth in the General Statutes of North Carolina.

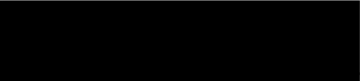
NOTICE: Be aware that if a state or federal regulator other than the N. C. Department of Insurance has issued an occupational or professional license to you, that regulator may require you to report this administrative action to it. The N.C. Department of Insurance cannot give you legal advice as to the specific reporting requirements of other state or federal regulators.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that I have this day served a copy of the foregoing **Order and Final Agency decision** by mailing a copy of same by United States mail, in a certified first class postage prepaid envelope, return receipt requested, addressed to the Respondent as follows:

Marion E. Lewis
183 Oaktree Lane
Henderson, NC 27537

This the 12th day of July, 2016.


M. Denise Stanford
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