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NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA 27601-0800

STATE OF NORTH CAROLINA COUNTY OF WAKE)	BEFORE THE COMMISSIONER OF INSURANCE Docket Number: D-1373
IN THE MATTER OF THE LICENSURE OF GEORGE LILLY, JR.)	ORDER AND FINAL AGENCY DECISION

THIS CAUSE was heard on September 19, 2007 by the undersigned hearing officer, designated by the Commissioner of Insurance pursuant to N.C. Gen. Stat. §58-2-55, pursuant to a notice of hearing that was duly issued and served on Respondent, George Lilly (hereinafter "Respondent").

The North Carolina Department of Insurance (hereinafter "Department") was present, represented by Gerald Mitchell with the Agent Services Division. The Department was represented by Assistant Attorney General Robert D. Croom.

Respondent was present and represented by David Hartley of the Harnett County bar.

At the hearing, Gerald Mitchell, a Complaint Analyst with the Department was called to testify by the Department and the Respondent testified on his own behalf.

The Department offered into evidence Exhibits 1 through 16, and said exhibits 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. The Notice of Administrative Hearing was properly served on Respondent.
2. Respondent has been licensed by the Department as a surety bail bondsman since September 28, 1998 and as a bail bond runner since May 9, 2001. Respondent has previously been the subject of regulatory action by the Department.
3. Respondent does business under the name "GL Bail Bonds."

4. On May 18, 2005, Respondent executed appearance bonds for Judith Ann Edwards in the amount of \$1,000.00 and \$500.00 in Cumberland County, North Carolina.
5. Receipts from GL Bail Bonds show that \$200 cash was received from Earl Fultz and \$750 was received from Earl Fultz on May 18, 2005 as premium and collateral for the Judith Ann Edwards bonds.
6. A credit card receipt provided by Mr. Fultz shows that \$780 was charged to a Visa credit card by GL Bail Bonds on May 18, 2005.

7. The highest amount of premium that Mr. Lilly would be allowed to charge for the bonds is \$225.
8. Mr. Lilly claimed that he only collected \$500 in collateral for Judith Ann Edwards.
9. Mr. Lilly testified that despite being aware of the requirement that money accepted as collateral must be deposited in a non-interest bearing trust account, the money he received from the credit card transaction was deposited into his "GL" account, which was his general operating account.
10. On December 6, 2005, the Respondent entered into a voluntary settlement agreement with the Department of Insurance in which he agreed, among other things:
 - a) to obey all laws and regulations applicable to licensed surety and professional bail bondsmen;
 - b) to immediately implement a record keeping system suitable for regulatory oversight by the Department;
 - c) to have all receipts be made using a receipt book that complies with 11 NCAC 13.0515; and
 - d) that the voluntary settlement agreement would have the full force and effect of an order of the Commissioner.
11. On August 10, 2006, the charges against Judith Ann Edwards were dismissed.
12. The Respondent testified that he did not review his outstanding bond obligations on a monthly basis but instead waited until someone came to see him to get their money or until he received a notice for forfeiture for a defendant.
13. The Respondent testified that when Mr. Fultz came to request the return of his collateral he told Mr. Fultz that Mr. Fultz needed to bring him proof that the charges were dismissed.
14. The Respondent further testified that he or someone from his office confirmed that the charges against Ms. Edwards were dismissed.

15. The Respondent testified that despite confirming that the charges against Ms. Edwards were dismissed, he waited until Mr. Fultz returned with proof of the dismissal before returning \$500 in collateral to Mr. Fultz.
16. The receipt issued on November 3, 2006, by the Respondent for the return of \$500 in collateral to Mr. Fultz does not comply with the requirements of 11 NCAC 13.0515.
17. The Respondent testified that, as of the date of the hearing, he had not changed his receipts to comply with the requirements of 11 NCAC 13.0515.

Based on the forgoing Findings of Fact, the Hearing Officer makes the following:

Conclusions of Law

1. This matter is properly before the Commissioner. The Commissioner has jurisdiction over the parties and the subject matter pursuant to North Carolina General Statutes §58-33-46, 150B-38, 150B-40, 11 NCAC 1.0401 et seq. and other applicable statutes and regulations.
2. Respondent was properly served with the Notice of Administrative Hearing.
3. Respondent collected in excess of 15% in premium for the bonds written for Judith Ann Edwards in violation of N.C. Gen. Stat. § 58-71-95(5).
4. Respondent failed to deposit cash collateral for the bonds written for Judith Ann Edwards into a separate non-interest bearing trust account in violation of N.C. Gen. Stat. § 58-71-100(a).
5. Respondent's failure to return collateral within 72 hours of final termination of liability is a violation of N.C. Gen. Stat. § 58-71-95(5).
6. Respondent continues to use receipts that violate the requirements of 11 NCAC 13.0515.
7. Respondent violated the terms of the December 6, 2005 Voluntary Settlement Agreement.
8. The December 6, 2005 voluntary settlement agreement has the full force and effect of an order of the Commissioner.
9. Pursuant to N.C. Gen. Stat. § 58-71-80(a)(7), the Respondent has failed to comply with the provisions of Article 71 of Chapter 58 of the North Carolina General Statutes, an order and a regulation of the Commissioner and his license should be revoked.
10. Pursuant to N.C. Gen. Stat. § 58-71-80(a)(8), the Respondent has shown himself to be incompetent, financially irresponsible, and untrustworthy in the conduct of his affairs under his license and his license should be revoked.


11. Pursuant to N.C. Gen. Stat. § 58-71-80(a)(10), Respondent charged a premium in excess of that permitted under Article 71 and his license should be revoked.

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

Order

It is hereby ordered that the surety bail bondsman and bail bond runner licenses issued to Respondent George Lilly, Jr. be revoked.

This the 31st day of October, 2007.



Stewart Johnson, Hearing Officer
N.C. Department of Insurance
N. C. Department of Justice
P.O. Box 629
Raleigh, NC 27602-0629
(919) 716-6610

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.

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 the same via certified U.S. mail, return receipt requested, in a first class postage prepaid envelope addressed as follows:

David V. Hartley
P.O. Box 966
Lillington, North Carolina 27546
Attorney for the Respondent

This the 31 day of October, 2007.



Robert D. Croom
Assistant Attorney General
N. C. Department of Justice
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