

NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE COMMISSIONER
OF INSURANCE

IN THE MATTER OF
ROLAND MELVIN LOFTIN, JR.
(NPN 8392529)

ORDER AND FINAL
AGENCY DECISION

Respondent.

Docket Number: 1895

THIS MATTER was heard on August 2, 2018 before the undersigned Hearing Officer, designated to preside over this matter by the Commissioner of Insurance pursuant to N.C. Gen. Stat. § 58-2-55.

Respondent, Roland M. Loftin, Jr., proceeding *pro se*, failed to appear at the hearing. After waiting approximately fifteen minutes for Mr. Loftin to appear, the hearing commenced.

Petitioner Bail Bond Regulatory Division ("BBRD") of the North Carolina Department of Insurance ("NCDOI") was present at the hearing and was represented by Daniel S. Johnson, Special Deputy Attorney General.

BBRD Senior Compliance Analyst Steve Bryant testified for Petitioner at the hearing. BBRD offered into evidence Petitioner's Exhibits 1 through 18, which were admitted into evidence.

After careful consideration of the evidence and arguments presented, and based upon the entire record in this proceeding, the Hearing Officer hereby makes the following Findings of Fact:

FINDINGS OF FACT

1. The Notice of Administrative Hearing and the Order for Continuance of Hearing were properly and timely served on Respondent Loftin. See the Affidavits of Service admitted into evidence as Exhibits 2 and 9.

2. Respondent Loftin appeared at the original June 21, 2018 hearing date set by the Notice of Hearing and orally moved for a continuance of the hearing. Respondent's June 21, 2018 oral motion to continue was granted and this hearing was rescheduled for August 2, 2018 by a written Order for Continuance of Hearing.

3. Respondent Loftin failed to appear at the August 2, 2018 hearing date set by the Order for Continuance of Hearing.

4. Pursuant to 11 NCAC 1.0423, if a party fails to appear at a hearing, the hearing officer may find that the allegations of the notice of hearing are taken as true or deemed to be proved without further evidence. Respondent Loftin failed to appear at this hearing and the undersigned Hearing Officer hereby finds the allegations of the notice of hearing are taken as true and are proved.

5. Respondent Loftin is currently licensed by the Department of Insurance as a Surety Bail Bondsman.

6. Respondent was formerly licensed by NCDOI as a Bail Bond Runner. Respondent's Bail Bond Runner's license has lapsed.

7. Respondent was formerly licensed by the NCDOI as a Professional Bail Bondsman. Respondent's Professional Bail Bondsman license has lapsed.

8. Respondent entered into a "Consent Order and Final Agency Decision" ("Consent Order") dated July 10, 2017 in NCDOI docket number 1765, entitled: "In the Matter of the Licensure of Roland Melvin Loftin, Jr."

9. The undersigned Hearing Officer signed the July 10, 2017 Consent Order and Final Agency Decision in NCDOI case number 1765 on behalf of the Commissioner of Insurance.

10. Respondent Loftin and his attorney at that time signed the July 10, 2017 Consent Order.

11. The July 10, 2017 Consent Order ordered Respondent not to apply at any time in the future to NCDOI for a license as a professional bail bondsman.

12. The July 10, 2017 Consent Order ordered Respondent not to apply at any time in the future to NCDOI for a license as a bail bond runner.

13. The July 10, 2017 Consent Order placed Respondent on probation for twenty-four months.

14. Under paragraph 6(b) of the Consent Order, Respondent was required, for a period of 24 months, to comply with the following condition:

“b. Respondent shall submit in writing, each month, a written report of the surety bail bonds written or executed by him during the preceding calendar month on behalf of any bail surety insurer. Each such report shall include all surety bail bonds written or executed during the preceding calendar month, whether or not such bail bond is still outstanding at the end of the preceding calendar month. A written report shall be due each month even if no bail bonds are written in the preceding calendar month.”

15. Under paragraph 6(c) of the Consent Order, Respondent was required, for a period of 24 months, to comply with the following condition:

“c. Respondent’s surety bail bond reports shall be received monthly by the Department of Insurance on or before fifteen days after the last day of the preceding month.”

16. Under paragraph 6(f) of the Consent Order, Respondent was required, for a period of 24 months, to comply with the following condition:

“f. Respondent’s monthly surety bail bond report shall include, for each surety bail bond, the date the surety bail bond was written or executed, the full name of the principal as shown on each surety bail bond, the amount of each surety bail bond, the amount of premium promised for each surety bail bond, the premium actually received for each surety bail bond, the name of the bail surety insurer for each surety bail bond, the serial numbers of all powers of attorney used for each surety bail bond, a full description of any collateral obtained from any person related to each surety bail bond, and the Court file information, including County and court file number, for each surety bail bond.”

17. Under paragraph 6(g) of the Consent Order, Respondent was required, for a period of 24 months, to comply with the following condition:

“g. Respondent shall expressly certify, by signing, under oath, the accuracy of each monthly surety bail bond report as follows: “I, Roland Melvin Loftin, Jr. hereby certify under oath that this Monthly Surety Bail Bond report is complete and accurate.” Respondent shall sign and certify each monthly surety bail bond

report personally and may not delegate this signing and certification obligation to any other person. Respondent's signature on each monthly report shall be notarized."

18. The July 10, 2017 Consent Order provided that pursuant to N.C. Gen. Stat. § 58-71-80(a)(7) Respondent's surety bail bondsman license may be revoked for violating any provision of the Consent Order.

19. The monthly report that Respondent submitted for July 2017 was the only monthly report that complied with the requirements of the Consent Order.

20. Respondent failed to submit monthly reports for any month after the October, 2017 monthly report.

21. Respondent failed to certify the completeness and accuracy of his monthly reports, or to have his signature notarized for the reports filed with NCDOI for the months of August, September, and October 2017.

22. Respondent's repeated failures to comply with the Consent Order were willful and intentional.

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 and the Order for Continuance of Hearing in this matter.

3. Pursuant to 11 NCAC 1.0423, if a party fails to appear at a hearing, the hearing officer may find that the allegations of the notice of hearing are taken as true or deemed to be proved without further evidence. Respondent Loftin failed to appear at this hearing and the undersigned Hearing Officer hereby finds the allegations of the notice of hearing are taken as true and are proved.

4. The July 10, 2017 Consent Order in Docket number 1765 is an "Order of the Commissioner" within the meaning of N.C. Gen. Stat. § 58-71-80(a)(7).

5. N.C. Gen. Stat § 58-71-80(a)(7) provides that the Commissioner may revoke any license issued under Article 71 of Chapter 58 for a licensee's failure to comply with any order of the Commissioner.

6. Respondent violated Paragraphs 6(b) and 6(f) of the Consent Order by failing to submit monthly reports for any month after the October, 2017 monthly report.

7. Respondent violated Paragraph 6(c) of the Consent Order by failing to submit his August and September monthly reports on time and by failing to submit any monthly reports after the October, 2017 monthly report.

8. Respondent violated Paragraph 6(g) of the Consent Order by failing, for the reports filed with the Department for months of August, September, and October, to certify the completeness and accuracy of those monthly reports or to have his signature notarized.

9. The lapse of a surety bail bondsman's license does not prevent a hearing to revoke that license. Pursuant to N.C. Gen. Stat. § 58-71-80(d), the Commissioner retains the authority to impose any penalty authorized by this Chapter against any person who is charged with a violation of this Chapter even if the person's license has been surrendered or has lapsed.

10. N.C. Gen. Stat § 58-71-82 provides that if an individual holds a professional bondsman's license or a runner's license and a surety bondsman's license simultaneously, those licenses are considered one license for the purpose of disciplinary actions involving suspension, revocation, or nonrenewal under Article 71 of Chapter 58.

11. The July 10, 2017 Consent Order permanently prohibits Respondent from ever again applying to be licensed as a professional surety bail bondsman or as a surety bail bond runner.

12. The language of the July 10, 2017 Consent Order falls short of revoking Respondent's lapsed professional surety bail bondsman license or Respondent's lapsed surety bail bond runner's license. It is the intent of this Order to revoke all surety bail bonding licenses ever issued to Respondent.

13. N.C. Gen. Stat. § 58-71-80(a)(13) provides that the Commissioner may take administrative action against a licensee who has entered into any business association or agreement with any person who has been disqualified under the surety bail bond laws of this State.

14. Respondent's repeated failures to comply with the Consent Order were willful and intentional.

15. Respondent's repeated and willful failures to comply with the Consent Order, an order of the Commissioner, constitute grounds for revocation of all of Respondent's surety bail bonding licenses under N.C. Gen. Stat. § 58-71-80(a)(7).

ORDER


Based upon the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Respondent's surety bail bonding licenses, including any such licenses that may have lapsed prior to hearing, shall be revoked and that Respondent is hereby disqualified for the purposes of N.C. Gen. Stat. § 58-71-80(a)(13) as a surety bail bondsman in this state.

APPEAL RIGHTS

This is a Final Agency Decision issued under the authority of N.C. Gen. Stat. § 150B, Article 3A.

Under the provisions of N.C. Gen. Stat. § 150B-45, any party wishing to appeal a final decision of the North Carolina Department of Insurance must file a Petition for Judicial Review in the Superior Court of the County where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, the county where the contested case which resulted in the final decision was filed. The appealing party must file the petition within 30 days after being served with a written copy of the Order and Final Agency Decision. In conformity with the 11 NCAC 1.0413 and N.C.G.S. § 1A-1, Rule 5, this Order and Final Agency Decision was served on the parties on the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Order and Final Agency Decision. N.C. Gen. Stat. § 150B-46 describes the contents of the Petition and requires service of the Petition on all parties. The mailing address to be used for service on the Department of Insurance is: A. John Hoomani, General Counsel, 1201 Mail Service Center, Raleigh, NC 27699-1201.

This rd 23 day of August 2018.


Sherri Hubbard
Hearing Officer
N.C. Department of Insurance

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing **ORDER AND FINAL AGENCY DECISION** by mailing a copy of the same via certified U.S. mail, return receipt requested; via first class U.S. mail to the licensee at the addresses provided to the Commissioner pursuant to N.C. Gen. Stat. § 58-2-69(b); and via State Courier to Attorney for Petitioner, addressed as follows:

Roland Melvin Loftin, Jr.
Loftin's Surety bail bonding
105 Green Street, E
Wilson, N.C. 27893-4007
(Respondent)


Certified Mail Tracking Number: 

Roland Melvin Loftin, Jr.
4920 White Oak Loop
Wilson, N.C. 27893-9435
(Respondent)

Certified Mail Tracking Number: 

Daniel S. Johnson
Special Deputy Attorney General
North Carolina Department of Justice
9001 Mail Service Center
Raleigh, NC 27699-9001
(Attorney for Petitioner)

This 23rd day of August, 2018.


Mary Faulkner
Paralegal
N.C. Department of Insurance
General Counsel's Office
1201 Mail Service Center
Raleigh, NC 27699-1201