



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

STATE OF NORTH CAROLINA )  
COUNTY OF WAKE )  
)  
)  
IN THE MATTER OF THE LICENSURE )  
OF JOSEPH FRANK MOLLER )  
(NPN # 13233199) )  
)

BEFORE THE COMMISSIONER OF  
INSURANCE  
Docket Number: 1554

**ORDER AND FINAL AGENCY  
DECISION**

*JR*

THIS CAUSE was heard on Thursday, February 3, 2011, 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.

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

Respondent, Joseph Frank Moller (hereinafter "Respondent"), failed to appear after being duly served with the notice of hearing.

At the hearing, Jerry Roventini, a Complaint Analyst with the Department, was called to testify.

The Department offered into evidence Exhibits 1 through 7, 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. The Notice of Administrative Hearing was properly served on Respondent on November 4, 2010.
2. Respondent has been licensed by the Department as a Bail Bond Runner since February 27, 2009.

3. On November 24, 2009, in Jackson County District Court, Respondent was convicted of Second Degree Trespassing and received a prayer for judgment continued in Jackson County file number 09 CR 51643.

6. Respondent did not notify the Commissioner of this conviction in writing within 10 days after the date of the conviction.

7. On February 16, 2010 in Jackson County Superior Court, as part of a negotiated plea, Respondent pled guilty to and was convicted of misdemeanor Cruelty to Animals in Jackson County file number 09 CRS 50610 and misdemeanor Accessory After the Fact (to Intimidating a Witness) in Jackson County file number 09 CRS 50612.

8. Respondent did not notify the Commissioner of these two convictions in writing within 10 days after the date of the convictions.

9. Respondent's convictions of Cruelty to Animals and Accessory After the Fact arose from an incident where Respondent killed a dog by shooting it seven times and then assisted [REDACTED] in placing the dog's severed head in the driveway of Dale Blankenship and Chelsea Schultz, who were summoned as witnesses in Jackson County District Court Stalking case, [REDACTED], for the purpose of intimidating Dale Blankenship and Chelsea Shultz from attending court and testifying against [REDACTED].

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 §58-71-80, 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. Pursuant to N.C. Gen. Stat. § 58-2-69(c), if a licensee is convicted in any court of competent jurisdiction for any crime or offense other than a motor vehicle infraction, the licensee shall notify the Commissioner in writing of the conviction within 10 days after the date of the conviction. As used in this subsection, "conviction" includes an adjudication of guilt, a plea of guilty, or a plea of nolo contendere.

4. Pursuant to N.C. Gen. Stat. § 58-71-80(a)(7), the Commissioner may deny, suspend, revoke, or refuse to renew any license under Article 71 of Chapter 58 of the North Carolina General Statutes for failure to comply with or violation of the provisions of Article 71 or any order, rule or regulation of the Commissioner.

5. Respondent violated N.C. Gen. Stat. §§ 58-2-69(c) and 58-71-80(a)(7) by not reporting his conviction of Second Degree Trespassing in writing to the Department within 10 days of November 24, 2009.
6. This violation of N.C. Gen. Stat. §§ 58-2-69(c) and 58-71-80(a)(7) by itself is sufficient to support a revocation of Respondent's license.
7. Respondent violated N.C. Gen. Stat. §§ 58-2-69(c) and 58-71-80(a)(7) by not reporting his convictions of misdemeanor Cruelty to Animals and misdemeanor Accessory After the Fact (to Intimidating a Witness) in writing to the Department within 10 days of February 16, 2010.
8. These violations of N.C. Gen. Stat. §§ 58-2-69(c) and 58-71-80(a)(7) by themselves are sufficient to support a revocation of Respondent's license.
9. Pursuant to N.C. Gen. Stat. § 58-71-80(a)(6), the Commissioner may deny, suspend, revoke, or refuse to renew any license under Article 71 of Chapter 58 of the North Carolina General Statutes for conviction of a crime involving moral turpitude.
10. "Moral turpitude is generally defined as an 'act of baseness, vileness or depravity in private and social duties which man owes to his fellow men, or to society in general, contrary to the accepted and customary rule of right and duty between man and man.'" N.C. State Bar v. Whitted, 82 N.C. App. 531, 347 S.E.2d 60 (1986) (quoting Black's Law Dictionary).
11. "'A crime may involve moral turpitude either 'inherently,' *i.e.*, by consideration strictly of its statutory elements . . . or on the facts of a particular case.'" See In Re David F. Luvara, 942 A.2d 1125, 1126 (D.C. 2008) (quoting In re Carpenter, 891 A.2d 223 (D.C. 2006)).
12. Pursuant to N.C.G.S. § 14-360(a), "[i]f any person shall intentionally . . . kill . . . any animal, every such offender shall for every such offense be guilty of a Class 1 misdemeanor."
13. Respondent's conviction for misdemeanor Cruelty to Animals is a conviction of a crime involving moral turpitude because it involves facts, specifically the killing of a dog by shooting it seven times and then assisting with placing the dogs severed head in the driveway of a witness.
14. Intentionally or knowingly intimidating a witness is a crime of moral turpitude *per se*. See In Re David F. Luvara, 942 A.2d at 1127.
15. "In a prosecution for accessory after the fact under G.S. § 14-7, the State need only show that the defendant knew: (1) that a felony had been committed; (2) that the principal had committed it; and (3) that the defendant rendered assistance to the principal personally." State v. Upright, 72 N.C. App. 94, 103, 323 S.e.2d 479, 486 (1984).

16. Respondent's conviction of Accessory After the Fact (Intimidating A Witness) is a conviction of a crime involving moral turpitude because it involves knowingly and personally rendering assistance to [REDACTED] after [REDACTED] had committed the felony of intimidating a witness, which is a crime involving moral turpitude *per se*.

17. Respondent's conviction of Accessory After the Fact (Intimidating A Witness) is a conviction of a crime involving moral turpitude because it involves facts, specifically the placing of a severed dog's head in the driveway of a witness, that demonstrate the crime was an "act of baseness, vileness or depravity in private and social duties which man owes to his fellow men, or to society in general, contrary to the accepted and customary rule of right and duty between man and man."

18. These violations of N.C. Gen. Stat. § 58-71-80(a)(6) by themselves are sufficient to support a revocation of Respondent's license.

19. The evidence presented at the hearing, in the form of testimony and the exhibits introduced, is sufficient to support a revocation of Respondent's license.

20. Pursuant to 11, NCAC 1.0423(a)(1), if a party fails to appear at a hearing or fails to comply with an interlocutory order of the hearing officer, the hearing officer may find that the allegations of or the issues set out in the notice of hearing or other pleading may be taken as true or deemed to be proved without further evidence. The Respondent failed to appear at the hearing.

21. Additionally, the allegations contained in the Notice of Hearing, are taken as true pursuant to 11 NCAC 1.0423(a)(1), and provide independent and alternative grounds sufficient to support a revocation of Respondent's license.

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

**Order**

It is hereby ordered that the Bail Bond Runner license issued to Respondent Joseph Frank Moller is permanently revoked.

This the 15<sup>th</sup> day of February, 2011.



Stewart Johnson, Hearing Officer  
N.C. 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.

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:

Joseph Frank Moller  
375 T & E Lane  
Franklin, NC 28734

Joseph Frank Moller  
1290 Cope Creek Road  
Sylva, NC 28779-8600

This the 16<sup>th</sup> day of February, 2011.



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