

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

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**BEFORE THE COMMISSIONER
OF INSURANCE**

**IN THE MATTER OF
THE LICENSURE OF
JAIR PEREA d/b/a JP's
BAILBONDING**

**ORDER and FINAL AGENCY
DECISION**

Docket Number: 1170

This matter was heard on June 16, 2004 at 9:00 a.m., by the undersigned hearing officer, as designated by the Commissioner of Insurance. The administrative hearing was held in Room # 3099 of the Dobbs Building, located at 430 North Salisbury Street, Raleigh, Wake County, North Carolina. Assistant Attorney General LaShawn L. Strange represented the Agent Services Division of the North Carolina Department of Insurance (hereinafter "Agent Services"). Licensee Jair Perea (hereinafter "Perea") appeared and was unrepresented by counsel. After careful review of the evidence and arguments, the hearing officer makes the following:

Findings of Fact

1. A Notice of Administrative Hearing was properly served on Perea pursuant to N.C.G.S §58-2-69.
2. On April 5, 2002, Perea was issued a surety bail bondsman license by the North Carolina Department of Insurance (hereinafter "the Department").
3. On January 7, 2003, Cipriano Avila (hereinafter "Avila") paid \$5000 in cash to Perea d/b/a JP's Bailbonding to pay the bonds for the release of Alejandro Guterrez Nunez (hereinafter "Guterrez Nunez"), who was being detained in the Mecklenburg County Jail as a federal prisoner.
4. At the time the monies were paid to Perea, Avila was issued a receipt from Perea for the monies paid to him, along with Perea's business card.
5. In a letter dated July 1, 2003, Attorney Christopher Connelly filed a complaint with the Department on behalf of his client, Avila, alleging that Avila paid \$5000 to Perea for the release of Guterrez Nunez, who, as a federal prisoner, could not be released under any bond. The complaint also stated that Avila was never issued a refund by Perea.

6. On or about July 16, 2003, Perea was contacted by the Department and asked to respond to the allegations by Avila. In a letter dated September 5, 2003, Perea responded to the Department. In the letter, Perea admitted to having received the funds from Avila and asked the Department to instruct him on how to resolve this matter.
7. In a letter dated September 10, 2003, the Department instructed Perea to return the funds to Avila within five days from the date of the letter. Perea was also informed in that letter that if the funds were not returned within the allocated time, administrative action would be pursued against him.
8. On or about February 5, 2004, the Department notified Perea that an informal conference would be held on March 5, 2004, to discuss the matter concerning the monies owed to Avila. Perea did not attend the conference, nor did he reply to the document.
9. Perea testified that Avila paid him \$5000 for the bond release of Guterrez Nunez. Perea testified that Guterrez Nunez was not eligible for bond release as a federal prisoner and that he had not returned the funds received for Guterrez Nunez's bond release to Avila.
10. At the hearing Perea informed the hearing officer that he had the funds given to him by Avila in his bank account. When given the opportunity to produce the funds, Perea admitted that there were insufficient funds in his bank account to return the \$5000 given to him by Avila.

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

Conclusions of Law

1. This matter is properly before this Hearing Officer, and the Hearing Officer has jurisdiction over the parties and the subject matter pursuant to N.C. Gen. Stat. §§58-71-80, 58-71-95, 150B-38, 150B-40, 11 N.C.A.C. 1.0401 et seq. and other applicable statutes and regulations.
2. Perea improperly withheld, misappropriated, and converted \$5,000 in monies received from Avila in the course of doing business as a licensed surety bail bondsmen, in violation of N.C. Gen. Stat. § 58-71-80(4). Violation of this insurance law warrants the revocation of Perea's license under N.C. Gen. Stat. §58-71-80(7).
3. Perea improperly withheld, misappropriated, and converted \$5,000 in monies received from Avila in the course of doing business as a licensed surety bail bondsmen, in violation of N.C. Gen. Stat. § 58-71-80(8). As such, Perea has demonstrated incompetence, financial irresponsibility and untrustworthiness in the conduct of his affairs under his surety bail bondsmen license. Violation of this insurance law warrants the revocation of Perea's license under N.C. Gen. Stat. §58-71-80(7).

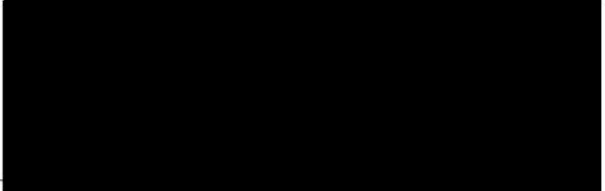
4. The Commissioner of Insurance has authority pursuant N.C.G.S. §58-2-70(c) and (e) to make application to the Superior Court of Wake County for an order that the petitioner pay restitution to make whole any person harmed by the petitioner's violation of the cited statutory provisions.
5. Avila was harmed by Perea's misappropriation and conversion of the \$5000 paid to him by Avila for the bond release of Guterrez Nunez. Perea did not secure the bond release of Guterrez Nunez; nor did Perea refund the \$5000 to Avila.

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

Order

It is hereby ordered that the surety bail bondsman license of Jair Perea is permanently revoked and that restitution be paid to Cipriano Avila in the amount of \$5000.

This the 20th day of July, 2004.



Peter A. Kolbe, Hearing Officer
N.C. Department of Insurance

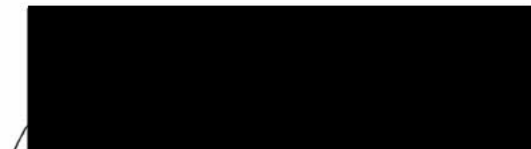
APPEAL RIGHTS: This Order may be appealed to Superior Court within 30 days of receipt, as set forth in the General Statutes of North Carolina.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day I have served a copy of the **Order and Final Agency Decision** by mailing a copy of the same via certified U.S. mail, first class postage prepaid, and addressed as follows:

Jair Perea
9919 Park Hurst Lane
Charlotte, NC 28227

This the 21st day of July, 2004.



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