

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

STATE OF NORTH CAROLINA

COUNTY OF WAKE

**BEFORE THE COMMISSIONER
OF INSURANCE**

Docket Number: D-1646

**IN THE MATTER OF
THE LICENSURE OF
CHAZZNE ROGERS**

**ORDER AND
FINAL AGENCY DECISION**

This matter was heard on December 13, 2012 by the undersigned Hearing Officer, as designated by the Commissioner of Insurance, pursuant to North Carolina General Statutes §§ 58-2-55, 58-2-70, 58-71-80, 58-71-85, 150B-38, 150B-40 and 11 N.C.A.C. 1.0401 *et. seq.* and other applicable statutes and regulations. Petitioner, the North Carolina Department of Insurance ["the Department"], was represented by Assistant Attorney General Anne Goco Kirby. Respondent represented herself at the hearing.

The hearing in this matter was originally scheduled for October 3, 2012. On October 2, 2012, Respondent's then counsel, Wendelyn Harris, filed a Motion to Continue the hearing. By order entered October 3, 2012, the Hearing Officer allowed Respondent's Motion to Continue and the hearing was rescheduled for November 14, 2012.

On November 13, 2012, Respondent's counsel submitted a Motion to Withdraw as Counsel. Respondent appeared at the hearing on November 14, 2012 without counsel. Ms. Harris' Motion to Withdraw was granted on the record. At the November 14, 2012 hearing, Respondent asked for a continuance. Respondent's request for a continuance was granted and the hearing was rescheduled on the record for December 13, 2012. A Scheduling Notice was issued to this effect on November 14, 2012.

The Department called Jerry Roventini, Karen Jones, and William Jones to testify during its case in chief. Respondent testified in her own defense. Respondent did not call any witnesses.

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

FINDINGS OF FACT

1. The Department has the authority and responsibility for enforcing compliance with Article 71 of Chapter 58 and for regulating and licensing surety bondsmen.

2. Respondent holds a Surety Bail Bondsman license issued by the Department. Respondent operates a bail bond business named A & R Bail Bonding, Inc. in Wake County.

3. William Felder is Respondent's boyfriend. Mr. Felder is not licensed as a bail bondsman. Mr. Felder worked as an employee for Respondent since at least January 9, 2012.

4. Karen Jones testified that Mr. Felder previously solicited her to write bonds for her boyfriend, Saleem Welfare, and his friend when they were arrested in September 2011. On that occasion, Mr. Felder approached Ms. Jones while she was waiting outside the Wake County magistrate's office and asked her if she was looking for a bondsman. When Ms. Jones answered affirmatively, Mr. Felder told Ms. Jones to walk across the street so that they could talk further about the matter. During their subsequent conversation, Mr. Felder quoted Ms. Jones separate premiums to bond out her boyfriend and his friend. Ms. Jones paid Mr. Felder the premiums and Mr. Felder completed paperwork for the bonds with Ms. Jones. Unbeknownst to Ms. Jones, the bonds were actually written by Regina Williams. Ms. Williams is a licensed bondsman whom Respondent identified as being her supervising agent.

5. Ms. Jones testified that she encountered Mr. Felder and his girlfriend, the Respondent, on another subsequent occasion when Ms. Jones went downtown to bond out her boyfriend. On that occasion, Mr. Felder asked Ms. Jones why she had not called him about posting that bond. When Ms. Jones told Mr. Felder that she had lost his number, Mr. Felder gave her his phone number of (919) 523-2602. Ms. Jones saved that number in her cell phone in case she might need a bondsman again in the future.

6. On March 31, 2012, Ms. Jones called Mr. Felder to ask him if he could post a bond for her son, William Jones, who was in the custody of the Wake County jail. Ms. Jones told Mr. Felder that she did not yet know the amount of the bond and that she only had \$600. Mr. Felder told Ms. Jones to meet him downtown and he would see what he could do. While Ms. Jones was driving downtown, Mr. Felder called Ms. Jones back on her cell phone and told her that he had learned that her son's bond was \$50,000. When Ms. Jones again told Mr. Felder that she only had \$600, Mr. Felder told Ms. Jones that he was still going to do it for her and that she should come on downtown and they would work it out.

7. Ms. Jones met Mr. Felder downtown in the early morning on April 1, 2012. When Ms. Jones arrived, Mr. Felder got into Ms. Jones' car to discuss the bond. Mr. Felder informed Ms. Jones that \$50,000 was a lot of money, that he did not even do bonds that high, and that he would have to charge her \$5000 to write the bond. Mr. Felder asked Ms. Jones if she had

anything more than \$600. Ms. Jones told Mr. Felder that she only had \$300 with her and that she could get another \$300 from her brother to make a \$600 payment. Ms. Jones further explained that she might be able to get some more money from her mother and her sister the next day, but she would not know until she saw them tomorrow. Thus, Ms. Jones told Mr. Felder that if he would tell her a specific amount that he would need she would see if she could get that money up. Mr. Felder then told Ms. Jones that he would need to collect at least \$2000 by Friday, April 6, 2012, in order to turn the bond in and that he would have to hold on to Ms. Jones' \$600 until Ms. Jones gave him the rest of the money just to turn the bond in. Ms. Jones agreed to come up with enough money to pay Mr. Felder \$2000, inclusive of her \$600 down payment, by Friday, April 6, 2012.

8. After reaching an agreement on the \$2000, Mr. Felder told Ms. Jones that she needed to tell him how she would pay the rest of the bond because he needed to explain to his boss how he was going to get the bond paid. Ms. Jones told Mr. Felder that she could pay the remaining balance of \$3000 in bi-weekly installments of \$300 beginning April 26, 2012 until the balance was paid off. Mr. Felder agreed to Ms. Jones' proposal, but further stated "but man my boss is going to kill me." In order to allay Mr. Felder's concerns, Ms. Jones told Mr. Felder that she had a motorcycle and that he could tell his boss that: (a) he could hold onto the title to her motorcycle as evidence of her good faith and (b) he could draft the \$300 out of her checking account every two weeks beginning April 26, 2012. Mr. Felder told Ms. Jones to just have the \$2000 for him by Friday for him to turn the bond in and not to worry about it because he knew her and he knew that she was "good people."

9. After Mr. Felder and Ms. Jones reached this verbal agreement on the arrangements for payment of deferred premium, Mr. Felder told Ms. Jones to get into his car with his girlfriend, the Respondent, so that she could complete the paperwork. Ms. Jones then got into the car with the Respondent while Mr. Felder remained outside. When Ms. Jones got in the car with the Respondent, Respondent asked her what she and Mr. Felder had discussed.

10. Ms. Jones testified when she told Respondent about her agreement with Mr. Felder, Respondent looked shocked and then stepped out of the car to talk to Mr. Felder. After she had a brief discussion with Mr. Felder, Respondent got back in the car and wrote down on a piece of paper that the premium charged was \$5000 and that Ms. Jones had agreed to pay \$1,700 by Friday, April 6, 2012. Ms. Jones testified that it was her understanding that the paper said \$1,700 instead of \$1,300 because she only had \$300 with her at the time. Ms. Jones signed the paper agreeing to pay \$1,700 by Friday, April 6, 2012. Respondent did not give Ms. Jones a copy of the paper she signed.

11. After obtaining Ms. Jones' signature on the paper, Mr. Felder and Respondent followed Ms. Jones to her house. While she was at her house, Ms. Jones picked up an ATM card and the title to her motorcycle. Mr. Felder and Respondent then followed Ms. Jones to the bank where Ms. Jones withdrew \$300. After Ms. Jones withdrew the money, she went over to Mr. Felder, who was sitting in the passenger seat of the car that Respondent was driving, and handed

Mr. Felder the \$600 down payment. Although Mr. Felder had previously told Ms. Jones that he did not need the title to her motorcycle, Ms. Jones handed Mr. Felder the title to her motorcycle and asked him if he wanted to hold on to it. Ms. Jones told Mr. Felder that his boss could hold onto the title to show her good faith that she would have the money to him by Friday. Mr. Felder took the title and money. Mr. Felder also gave Ms. Jones a receipt dated April 1, 2012 for the \$600 payment and obtained Ms. Jones' signature on that receipt.

12. After collecting the \$600 payment, Mr. Felder and Respondent went to the Wake County jail to post the bond for William Jones. Mr. Jones' girlfriend accompanied them to the jail. Mr. Jones testified that when he left the jail, his girlfriend told him to go across the street to meet with the bondsman. Mr. Jones then walked across the street and got into a car with Mr. Felder and Respondent. Mr. Jones testified that while they were in the car together, Mr. Felder talked to him about the premium for his bond. In particular, Mr. Felder told Mr. Jones that his mother had paid \$600 to get him out and that his mother had agreed to pay \$1,700 by Friday, April 6, 2012. Mr. Felder told Mr. Jones that he believed that Mr. Jones could pay additional amounts. Mr. Jones testified that since he was unemployed, he told Mr. Felder that he could not pay additional amounts and that he would be paid whatever his mother had agreed to pay him. Respondent did not say anything to Mr. Jones except to ask him to step out of the car so that she could take his photograph.

13. Between April 1, 2012 and April 7, 2012, Ms. Jones made 3 other premium payments totaling \$1,600 as follows: \$300 on the evening of April 1, 2012, \$400 a few days later, and \$900 on April 7, 2012. Ms. Jones testified that she called Mr. Felder each time she had a payment ready for him. On each occasion, Mr. Felder came to her house and picked up the money. Although Ms. Jones called Mr. Felder on April 6 to tell him that she had \$900 for him, Mr. Felder did not come by her house to pick up the money until 1 am on April 7, 2012.

14. Ms. Jones testified that she handed Mr. Felder the \$300 and \$900 payments on April 1 and 7, 2012, respectively. Mr. Felder gave Ms. Jones a receipt for her payment of \$300 on April 1, 2012 and a receipt for her payment of \$900 on April 7, 2012 and asked her to sign each receipt. Although Ms. Jones was at home when Mr. Felder came to collect the \$400, Ms. Jones testified that she was upstairs at the time and thus asked her son to answer the door and give Mr. Felder the money which she had left out for him. Mr. Jones testified that he did in fact answer the door for Mr. Felder and that he handed Mr. Felder the \$400. Mr. Felder took the money from Mr. Jones and left without giving Mr. Jones a receipt.

15. The receipt for \$300 issued on April 1, 2012 listed a balance of \$4,100 owed after applying credit for the \$300 payment. The receipt for \$900 collected on April 7, 2012 listed a balance of \$3,800 due at the time and a balance of \$2,900 was owed after applying credit for the \$900 payment. Thus, Ms. Jones only received credit for \$300 of the \$400 payment that she made.

16. Ms. Jones testified that when Mr. Felder collected the \$900 payment on April 7, 2012, Mr. Felder asked her when she would have some more money for him. Ms. Jones told Mr. Felder that he would get his next payment on April 26, 2012 as previously agreed. Ms. Jones also told Mr. Felder that he should have brought her title back to her since she had paid \$2,200.

17. On April 10, 2012, Mr. Felder called Ms. Jones and asked her how much she had for him. Ms. Jones again told Mr. Felder that she would not have anything for him until April 26, 2012 as previously agreed. Mr. Felder then told Ms. Jones that his boss was pressuring him and that they were going to need for her to bring her motorcycle downtown to them to put in storage. Mr. Felder further explained that his boss was telling him that he was going to need more money to turn in this bond and that he needed this bond to be secure. Ms. Jones asked Mr. Felder why his boss needed more than the \$2000 to which she and Mr. Felder had already agreed. Mr. Felder reiterated that his boss told him that he could not turn the bond in for \$2000 and that Ms. Jones would need to bring her motorcycle to them. Ms. Jones told Mr. Felder that the motorcycle was no longer an issue because she had paid the \$2000. However, Ms. Jones asked Mr. Felder how much his boss was telling him he would need to turn the bond in. Mr. Felder then told Ms. Jones that his boss would need at least \$2,500 to turn the bond in. Ms. Jones told Mr. Felder that she would get him an additional \$500 by Friday, April 15, 2012.

18. On April 12, 2012, Ms. Jones received a phone call from the Respondent. Ms. Jones testified that she had not seen or spoken to Respondent since her first meeting with Mr. Felder on April 1, 2012. During this phone conversation, Respondent told Ms. Jones that since "you and William want to have conversations over the phone" Ms. Jones needed her to bring her motorcycle to Respondent and sign the title over to her. Ms. Jones told Respondent that she was not going to bring her the motorcycle or sign the title over and asked Respondent why she was demanding this. Respondent told Ms. Jones that she had not "complied with everything that she was supposed to." In response, Ms. Jones told Respondent that she had paid Mr. Felder the \$2000 per her agreement with him and that she wanted her motorcycle title back. Respondent told Ms. Jones that this was not what Ms. Jones had agreed to do and continued to insist that Ms. Jones bring the bike and sign the title over to Respondent.

19. Ms. Jones testified that she and Respondent continued to argue about her motorcycle for 45 minutes over the telephone until Ms. Jones again told Respondent that she would not give her the motorcycle and sign the title over to her and demanded that Respondent return her motorcycle title and her money. Respondent then told Ms. Jones that she was going to surrender Ms. Jones' son if Ms. Jones did not bring her the motorcycle and sign the title over to her. Ms. Jones gave Respondent her mother's address where her son was staying that day and told Respondent that she could go ahead and surrender her son if that was what she had to do. Ms. Jones also told Respondent that if she surrendered her son she would just get a real bondsman to bond him back out.

20. Ms. Jones testified that after she told Respondent that she planned to get another bondsman to bond her son back out if Respondent surrendered her son, Respondent told Ms. Jones that: (a) Respondent did not think that she could get another bondsman to bond her son back out because Ms. Jones did not have any money, (b) Respondent was going to prove that Ms. Jones breached her payment agreement because Ms. Jones would not be entitled to her money back if she did not pay her, (c) Respondent was going to surrender her son and make Ms. Jones come downtown, (d) Ms. Jones was not going to see another dime of her money, (e) Respondent was going to have Ms. Jones' motorcycle, and (f) Respondent knew that Ms. Jones was not going to have enough money to hire a lawyer to take her to court to win her case because she did not have enough money to pay this bond.

21. On cross examination, Ms. Jones testified that Respondent did not tell her that she was demanding her motorcycle because she had allegedly breached a payment agreement. Ms. Jones further explained that Respondent only alleged that she breached a payment agreement after Respondent told her that she was going to surrender her son and Ms. Jones requested Respondent to return her title and money.

22. Ms. Jones testified that towards the end of her telephone conversation with Respondent, she asked Respondent why she was calling her since she had never dealt with Respondent, only Mr. Felder. Respondent then told Ms. Jones that she was "the boss." At this point, Ms. Jones hung up the phone on Respondent. Ms. Jones then called Mr. Felder and asked him why his girlfriend was calling her and telling her that she was his boss and demanding that Ms. Jones bring her motorcycle downtown to her and sign over the title. Mr. Felder did not attempt to explain Respondent's behavior and did not acknowledge that Respondent was his boss. While Ms. Jones was talking to Mr. Felder, she heard Respondent stating in the background "I don't care what you say. Bring me my bike." Mr. Felder reiterated that his boss was pressuring him and informed Ms. Jones that his boss was now going to need at least \$3000 or the bike in order to turn in the bond. Ms. Jones told Mr. Felder that they were not getting her motorcycle and then hung up the phone.

23. After speaking to Respondent and Mr. Felder on April 12, 2012, Ms. Jones called Jerry Roventini, a Complaint Analyst in the Agent Services Division ["Agent Services"] of the Department of Insurance, to initiate a complaint against Mr. Felder and Respondent. Mr. Roventini told Ms. Jones that she would need to submit a written complaint to Agent Services and to submit copies of any supporting documents with her complaint.

24. After she spoke with Mr. Roventini, Ms. Jones called Respondent back on April 12, 2012 and informed Respondent that she had contacted the Department of Insurance about their dispute. Ms. Jones told Respondent that Mr. Roventini needed her to get a copy of the bond for her son so that she could open a case against Respondent. Respondent told Ms. Jones that she was not going to give it to her. Ms. Jones then gave Respondent Mr. Roventini's telephone and fax numbers and told Respondent that she could just fax it to Mr. Roventini. Respondent later called

Ms. Jones and told her that there was no Jerry at that number. Ms. Jones told Respondent that it was the correct number and gave Respondent the number again. Respondent told Ms. Jones that she would try to fax the bond and other paperwork to Mr. Roventini. Subsequently, on April 13, 2012, Respondent texted Ms. Jones and told Ms. Jones that she had sent the paperwork to Mr. Roventini. However, Respondent had not in fact sent any paperwork to Mr. Roventini.

25. The next day, Respondent called Ms. Jones while she was at work. Ms. Jones, who works as a nurse, texted a message to Respondent that she could not talk to her because she was at work. In a reply text, Respondent told Ms. Jones that she had tried to pick up her son at her mother's house but he was not there. Ms. Jones texted Respondent that she had to be lying because Ms. Jones had called her mother and verified that her son was at her mother's house that day. Ms. Jones testified that during that conversation with her mother, she told her mother that Respondent was going off her son's bond and that Respondent would be coming to her mother's house to pick up her son.

26. Subsequently, Respondent sent another text to Ms. Jones in which she told Ms. Jones that she was "not going to see a dime of your money because you're not trying to surrender your son and it's considered hiding and by you hiding him I'm entitled to that money and I can go off his bond." In a text reply, Ms. Jones told Respondent that her son was not hiding, that he was at home every day, and that the Raleigh police department was in regular contact with her son. Ms. Jones also suggested that Respondent call the police department to verify that her son is not hiding and that Respondent ask the police department to come get her son and bring him to Respondent.

27. Ms. Jones testified that after receiving multiple text messages from Respondent, she finally texted Respondent to request that she stop texting her. In a final text reply, Respondent told Ms. Jones that she would see her in court and that she was going to get Ms. Jones' motorcycle.

28. On April 18, 2012, Respondent picked up William Jones at the Wake County courthouse as Mr. Jones was waiting outside the courtroom to appear for his court date and surrendered him. Mr. Jones testified that Respondent told him that she was surrendering him because his mother allegedly missed a payment.

29. Mr. Felder called Ms. Jones after Respondent surrendered her son and told Ms. Jones that he could bond out her son if she could come up with \$1,500. During this conversation, Mr. Felder told Ms. Jones that Respondent had went too far, apologized for Respondent's behavior, and assured Ms. Jones that she would not have to deal with Respondent again. Ms. Jones testified that she merely listened to what Mr. Felder had to say and then reported his call to Mr. Roventini. Ms. Jones later found another bondsman to bond her son back out.

30. On April 19, 2012, Ms. Jones faxed a 9 page handwritten complaint regarding Mr. Felder and Respondent to Mr. Roventini. Ms. Jones included copies of the receipts which Mr. Felder gave to her for the \$600 down payment on April 1, 2012, the \$300 payment on April 1, 2012, and the \$900 payment on April 7, 2012 with her complaint. Neither Mr. Felder nor Respondent signed the receipts.

31. In her written complaint, Ms. Jones gave a detailed account of her dealings with Mr. Felder and Respondent. Since Ms. Jones only knew William's first name and did not know Respondent's name, she referred to Mr. Felder as "William the bondsman" and referred to Respondent as being William's girlfriend. The receipts which Ms. Jones produced did not include the name and address of the bondsman or show the name of the person accepting payment on the receipts as required by 11 NCAC 13.0515. Thus, Mr. Roventini was unable to determine the name of the bondsman from the face of the complaint and receipts.

32. On April 19, 2012, Mr. Roventini called the phone number for William of 919-523-2602 which Ms. Jones provided in her complaint. When the man who answered the phone acknowledged that his name was William, Mr. Roventini told William that he was an employee with the Department of Insurance and that he had a question about a bail bonding matter. Mr. Felder then told Mr. Roventini that he did not know anything about bonds.

33. After he spoke to William, Mr. Roventini called the Wake County Clerk of Court's office to find out who wrote the bond for William Jones and to request a copy of that bond. The clerk's office informed Mr. Roventini that Respondent was listed as the bondsman on William Jones' bond. Mr. Roventini later received a faxed copy of the William Jones' bond and observed that the Affidavit of Surety form on the back side of the bond had not been completed as required by N.C.G.S. § 58-71-140(d).

34. After learning that Respondent wrote Mr. Jones' bond, Mr. Roventini called Respondent on April 19, 2012 and told her that he had received a complaint from Karen Jones regarding a bond that she had written for Ms. Jones' son. Mr. Roventini told Respondent that Ms. Jones had mentioned that she often dealt with a man named William on the bond and terms of payment and asked Respondent who the man named William was. Respondent did not answer Mr. Roventini's question and changed the subject. Mr. Roventini then told Respondent that he would follow up with a formal e-mail request for her written response to the complaint.

35. In a follow up e-mail dated April 19, 2012, Mr. Roventini informed Respondent that Agent Services had received allegations from Ms. Jones that Respondent breached a payment arrangement for Defendant Jones' bond and failed to return the premiums upon surrendering Defendant Jones. Mr. Roventini requested that Respondent provide a written response to Ms. Jones' complaint and specifically requested that Respondent: (a) "address Ms. Jones' allegation that she often dealt with a 'William' on details of the bond and payments" and (b) "identify this gentleman, for whom Ms. Jones provided a working phone number . . ."

36. On April 20, 2012, Respondent e-mailed a written response to the complaint to Mr. Roventini. Respondent included copies of a memorandum of agreement, indemnity agreement, and two premium receipts with her response. In her April 20, 2012 response, Respondent alleged that Ms. Jones agreed to pay \$3,000 by April 6, 2012. The purported memorandum of agreement which Respondent produced to Agent Services indicated that a premium of \$5000 was charged and that a deferred premium of \$4,400 was to be paid "every two weeks, 4/1/, 4/2, & 4/6" as follows: \$300 on April 1, \$400 on April 2, \$1700 on 4/6, and \$300 on April 26. The agreement had the purported signature of Karen Jones. The agreement did not include the signature of the Respondent and was not signed by Defendant Jones.

37. In her April 20, 2012 response, Respondent alleged that Ms. Jones made the following premium payments: \$600 on April 1, 2012, \$300 on April 1, 2012, \$300 on April 2, 2012, and \$900 on April 7, 2012. Thus, Respondent contended that Ms. Jones' April 2 payment was \$100 short and that her April 7 payment was a day late and \$800 short. Respondent alleged that she called Ms. Jones on April 12, 2012 and "informed her that she has been having an issue with sticking to the payment agreement and that I would like for her to turn over the motorcycle into my possession until she has completed her payments. . . ." Respondent further alleged that Ms. Jones told her that she preferred to keep the motorcycle in her possession. Respondent then told Ms. Jones that she could do so only if she would sign the title over to her. Ms. Jones would not agree to do this and told Respondent that she could just lock her son back up.

38. In her April 20, 2012 response, Respondent never mentioned Mr. Felder and falsely stated in answer to Mr. Roventini's request for information regarding the man named William: "the William that was involved was William Jones. All of the information that was discussed and documents that were signed was between Karen Jones and I." However, Respondent did not provide details regarding any negotiations of the memorandum of agreement with Ms. Jones on April 1, 2012 and did not indicate that she had any meetings or other interaction with Ms. Jones until she called Ms. Jones on April 12, 2012.

39. The two premium receipts which Respondent produced with her response reflected that a total of \$2,100 was collected from Ms. Jones. Both receipts were purportedly signed by Ms. Jones. The receipts were not signed by Mr. Felder or Respondent. The first receipt did not match any of the receipts which Ms. Jones produced. Whereas the other receipts had the date and the amount of money collected handwritten at the top, the only handwriting which appeared on the first receipt was the name William Jones written beside "Defendant" and the amounts of \$5000, \$1,200, and \$3,800 written in at the bottom left corner as being the amounts due, paid, and balance due, respectively. The second receipt was for the \$900 collected on April 7, 2012 and matched one of the 3 receipts that Ms. Jones produced to Agent Services.

40. Mr. Roventini testified that Agent Services was not satisfied with Respondent's answer to its request for information on the identity of the man named William given that Ms.

Jones' written complaint described her dealings with a man named William and provided a working number for William. Thus, Mr. Roventini sent a follow up e-mail to Respondent on June 11, 2012 in which he requested that Respondent provide: (a) the complete name and address of the man identified merely as "William-Consultant" on Respondent's business card for A & R Bail Bonds, (b) the dates of William's employment with A& R Bail Bonds, (c) a list and description of William's duties, and (d) a detailed explanation of William's involvement in the William Jones matter.

41. Mr. Roventini attached a copy of Ms. Jones' complaint and a copy of Respondent's business card which Ms. Jones had faxed to Mr. Roventini on April 20, 2012. The name of Respondent's bail bonding business appeared on the top of the business card. Respondent's first name and title of "agent" appeared on the card beside her phone number of (919) 417-4911 and Mr. Felder's first name, title of "consultant", and phone number of (919) 523-2602 appeared below Respondent's name.

42. On June 14, 2012, Respondent e-mailed a written, verified response to Mr. Roventini's requests. In her response, Respondent identified William as William Felder. Respondent alleged that Mr. Felder had been her employee since January 9, 2012 and that Mr. Felder only performed "General office duties: Answering phones, cleaning, making copies, keeping track of expenses by uploading receipts, help generate new advertising ideas, help design business cards and/or flyers and filing when necessary."

43. In response to Mr. Roventini's request for a detailed explanation of Mr. Felder's involvement in the William Jones matter, Respondent stated: "He answered the call regarding the bond of William Jones (timing of call is unsure). [sic] received the call after 1 am 4/1/12 and he accompanied me downtown to help ensure my safety since I was bonding out a young male. Other than any additional calls that were taken, that was the extent of his involvement."

44. In June 2012, Agent Services faxed Respondent's April 20, 2012 written statement to Ms. Jones and asked that she provide a written response to Respondent's allegations. In a June 15, 2012 faxed response, Ms. Jones disputed Respondent's allegations regarding the payment agreement and reiterated her prior statements regarding her dealings with William the bondsman. Ms. Jones' June 15, 2012 response was consistent with her written complaint.

45. Ms. Jones testified that Agent Services subsequently provided her with a copy of the indemnity agreement, memorandum of agreement, and premium receipts which Respondent produced. Ms. Jones testified that she reviewed the purported signatures which appear on the indemnity agreement, memorandum of agreement, and the \$1,200 receipt. However, Ms. Jones denied that the purported signatures on these documents were hers and testified that she never made a \$1,200 payment.

46. When asked about the memorandum of agreement which Respondent produced, Ms. Jones reiterated that she only promised to pay a total of \$1,700 by April 6, 2012 and that the paper she signed merely listed the premium of \$5000 and had handwritten in the bottom right corner that \$1,700 was due by Friday, April 6, 2012. Ms. Jones further testified that she never told Mr. Felder that she would pay \$300 on April 1, 2012, \$400 on April 2, 2012, and \$1,700 on April 6, 2012, as indicated in the memorandum of agreement which Respondent produced to Agent Services, and that she would never have promised to pay these amounts on these dates because she had to gather the money from friends and family and thus was not sure how much and when she would be able to gather it.

47. By letter to Respondent dated June 15, 2012, Agent Services requested that Respondent attend an informal conference with Agent Services on June 21, 2012 in order to discuss allegations which it received from Ms. Jones which appear to justify the suspension or revocation of her bail bondsman's license. In the June 15, 2012 letter, Agent Services specifically alleged, in part, that Respondent appears to have: (a) knowingly aided and abetted an unlicensed person to perform the functions, duties, or powers prescribed for professional bondsman in violation of N.C.G.S. § 58-71-40(a), (b) violated N.C.G.S. § 58-71-167 by failing to obtain a written memorandum of agreement signed by the Defendant Jones and the bondsman for the deferred premium payments on Defendant Jones' bond, and (c) violated N.C.G.S. § 58-71-20 by failing to return the premium which she collected for Defendant's bond within 72 hours of surrendering Defendant.

48. Respondent and her then counsel, Wendelyn Harris, appeared for the informal conference with Agent Services on June 21, 2012. During the conference, Agent Services again requested that Respondent explain Mr. Felder's duties and the nature of his involvement in the William Jones matter. In answer to Agent Services' questions about Mr. Felder, Respondent reiterated the statements which she made in her June 14, 2012 response.

49. During the conference, Agent Services explained to Respondent its positions that: (a) the memorandum of agreement which Respondent produced did not comply with N.C.G.S. § 58-71-167 since it was not signed by the Defendant or the bondsman and (b) Respondent cannot assert breach of that agreement as grounds for not returning the premium as otherwise required under N.C.G.S. § 58-71-20 within 72 hours of surrendering the defendant since the agreement was not made in conformance with N.C.G.S. § 58-71-167. Accordingly, Agent Services requested that Respondent refund the premium to Ms. Jones. Agent Services also requested that Respondent return Ms. Jones' motorcycle title.

50. Respondent agreed to return Ms. Jones' motorcycle title and did so after the informal conference. However, Respondent told Agent Services at the informal conference that she would not refund the premium to Ms. Jones. Respondent further asserted, for the first time, that she was not required to return the premium pursuant to N.C.G.S. § 58-71-20(a)(3) and (6), respectively, because William Jones allegedly physically hid from her and had pending federal

charges which he failed to disclose to Respondent. Respondent did not provide Agent Services with any evidence to substantiate those allegations against Mr. Jones and failed to offer any evidence or argument at the hearing to support those allegations.

51. During the informal conference, Agent Services showed Respondent the receipts for \$600 and \$900 which Ms. Jones produced with her complaint. Respondent confirmed that those receipts were genuine and alleged that she gave those receipts to Ms. Jones. Respondent also told Agent Services that she gave the undated receipt for \$1200 which Respondent produced with her April 20, 2012 response to Ms. Jones and obtained Ms. Jones' signature on that receipt.

52. During the informal conference, Agent Services asked Respondent to explain how and why she would issue a receipt for a \$1200 payment since Ms. Jones never made a \$1,200 payment. Respondent did not offer any explanation at the informal conference. However, on cross examination at the hearing, Respondent testified that she collected the third payment of \$300 from Ms. Jones on April 2, 2012 and issued the receipt to Ms. Jones for \$1,200 instead of \$300 to reflect a combination of her payments of \$600 and \$300 on April 1, 2012 and \$300 on April 2, 2012.

53. N.C.G.S. § 58-71-40(a) provides, in pertinent part, that: "No person shall act in the capacity of a professional bondsman, surety bondsman, or runner or perform any of the functions, duties, or powers prescribed for professional bondsmen, surety bondsmen, or runners under this Article unless that person is qualified and licensed under this Article. . . ."

54. N.C.G.S. § 58-71-40(e) provides that "[t]his section does not prohibit the hiring of personnel by a bail bondsman to perform only normal office duties." The term "normal office duties" is not defined by statute.

55. In July 2010, Agent Services issued a position paper addressing the issue of what constitutes "normal office duties" of an unlicensed employee working in a bail bondsman's office. [hereinafter, "position paper"] The position paper was posted on the Department's website and was distributed to the North Carolina Bail Agents Association for inclusion in its pre-licensing and continuing education materials for bail bondsmen. The Department introduced the position paper into evidence at the hearing.

56. The position paper states Agent Services' position on various activities, including the quoting of premium, discussion of terms and conditions of the bond, negotiation of the amount of the bond premium, or negotiation of arrangements for deferred payment. The position paper states Agent Services' position that the foregoing activities do not constitute normal office duties and thus may not be performed by an unlicensed employee working for a bondsman. With respect to issuing receipts for premium payments, the position paper states Agent Services' position that an unlicensed employee can accept installment payments of premium pursuant to a

memorandum of agreement if those payments are made in the bondsman's office, but cannot accept the initial premium payment.

57. Mr. Roventini testified that the duties which Respondent listed in her June 14, 2012 response as being performed by Mr. Felder appear to be normal office duties that may be performed by an unlicensed employee. However, Mr. Roventini testified that in his opinion normal office duties do not include accompanying a bail bondsman to bond out a defendant as Respondent indicated Mr. Felder did on April 1, 2012. Mr. Roventini further testified that Ms. Jones' complaint and testimony indicated that Mr. Felder performed the following activities which are not normal office duties of an unlicensed employee: quoting the premium, discussing the terms and conditions of the bond, negotiating the arrangements for deferred payment with Ms. Jones, collecting the initial \$600.00 payment and subsequent premium installments payments made outside of a bondsman's office, and issuing receipts for those payments collected outside of the office.

58. After the June 21, 2012 informal conference, Agent Services researched Mr. Felder's criminal record on the North Carolina Department of Public Safety's website and noted that Mr. Felder has a number of prior felony convictions. Agent Services obtained and introduced certified copies of court records showing Mr. Felder's convictions of the following felonies: (a) larceny after breaking and entering, attempted felonious larceny, and breaking and entering in Pamlico County in July 1997 (b) flee/elude arrest with a motor vehicle in Pamlico County in October 2001, (c) flee/elude arrest with a motor vehicle in Craven County in December 2001, (d) larceny of a motor vehicle in Craven County in December 2001, and (e) common law robbery in Wake County in February 2006.

59. Mr. Felder's prior felony convictions make him disqualified for issuance of a bondsman's license pursuant to N.C.G.S. §§ 58-71-50(b)(7) and 58-71-80(b). On cross examination, Respondent admitted that she had known Mr. Felder for a number of years before she hired him in January 2012, that Mr. Felder was her live-in boyfriend, and that she knew that Mr. Felder had "a felony" which disqualified him from holding a bail bondsman's license when Mr. Felder began working with her in January 2012. Respondent also testified that Mr. Felder stopped working for her after Ms. Jones complained to the Department.

60. Respondent testified that she collected all payments from Ms. Jones and that Ms. Jones only dealt with Respondent regarding the terms of the bond and payment. Respondent also testified that Ms. Jones signed the memorandum of agreement which Respondent produced to Agent Services. However, Respondent did not testify regarding any alleged negotiations of the terms of that agreement between she and Ms. Jones on April 1, 2012 or regarding any alleged meetings Respondent had with Ms. Jones to collect the premium payments. Moreover, Respondent's testimony was contradicted by the testimony of Ms. Jones and Mr. Jones regarding their interactions and dealings with Mr. Felder. Ms. Jones' testimony was consistent with her written complaint and June 15, 2012 response to Agent Services. On the other hand, Respondent

avoided answering Mr. Roventini's initial telephone inquiry regarding the identity of William, lied in her April 20, 2012 written response to Mr. Roventini's request for information on the identity of the man named William, and failed to disclose Mr. Felder's identity and involvement until she received Mr. Roventini's June 11, 2012 follow up e-mail request. In her June 14, 2012 response to that request, Respondent falsely asserted that Mr. Felder's duties were limited to general office duties while admitting that Mr. Felder accompanied her downtown to bond out the Defendant. Thus, the Hearing Officer finds that Ms. Jones' testimony and prior written statements were credible and that Respondent's testimony and prior written statements were not credible.

61. Accordingly, the Hearing Officer finds that Mr. Felder quoted the premium on William Jones' bond to Ms. Jones, discussed the terms and conditions of the bond with Ms. Jones, and negotiated the arrangements for deferred payment with Ms. Jones. Mr. Felder also collected the initial \$600.00 payment on April 1, 2012 and subsequent premium payments of \$300 and \$400 on April 1, 2012 and \$900 on April 7, 2012. Mr. Felder went to Ms. Jones' house to collect all payments except the first payment and issued receipts to Ms. Jones for all of the payments except the \$400 payment. Respondent was only present when Mr. Felder collected the first payment on April 1, 2012. Respondent did not see or talk to Ms. Jones again until April 12, 2012.

62. Ms. Jones did not sign the undated receipt for \$1,200, the indemnity agreement, and the memorandum of agreement which Respondent produced in response to Agent Services' April 19, 2012 requests. Respondent forged Ms. Jones' signature to those documents in order to substantiate Respondent's April 20, 2012 response to Agent Services and to support Respondent's contention that she was not required to return the premium to Ms. Jones upon surrendering William Jones.

CONCLUSIONS OF LAW

1. Respondent was properly served with the Notice of Hearing in this matter. The Department has personal jurisdiction over Respondent and subject matter jurisdiction in this matter.

2. N.C.G.S. § 58-71-40(a) provides, in pertinent part, that: "No person shall act in the capacity of a professional bondsman, surety bondsman, or runner or perform any of the functions, duties, or powers prescribed for professional bondsmen, surety bondsmen, or runners under this Article unless that person is qualified and licensed under this Article. ..."

3. William Felder solicited and negotiated bail bonds and performed the functions, duties and powers prescribed for bondsman or runners under Article 71 of Chapter 58 in violation of N.C.G.S. § 58-71-40(a).

4. Respondent knowingly aided and abetted Mr. Felder to violate N.C.G.S. § 58-71-40(a). Respondent's conduct in doing so constitutes grounds to revoke her bondsman's license pursuant to N.C.G.S. § 58-71-80(a)(14).

5. Respondent fabricated the \$1,200 receipt and memorandum of agreement. Respondent forged Ms. Jones' signature to these documents and to the indemnity agreement.

6. Respondent engaged in fraudulent or dishonest practices in the conduct of business under her license within the meaning of N.C.G.S. § 58-71-80(a)(5) during the course of her dealings with Ms. Jones, William Jones, and with the Department in this matter. Such fraudulent or dishonest practices include, but are not limited to, Respondent's: (a) unjustified demands for Ms. Jones to turn over her motorcycle to her and sign over the title, (b) unwarranted threats to surrender Ms. Jones' son and keep the premium if Ms. Jones did not comply with those demands, (c) fabrication of a \$1,200 receipt and memorandum of agreement, (d) forgery of Ms. Jones' signatures on the \$1,200 receipt, memorandum of agreement, and indemnity agreement, (e) unjustified refusal to refund the premium to Ms. Jones upon surrendering her son, and (f) unjustified refusal to return Ms. Jones' title upon Ms. Jones' request.

7. N.C.G.S. § 58-71-20 provides that "[a]t any time before there has been a breach of the undertaking in any type of bail or fine and cash bond the surety may surrender the defendant to the sheriff of the county in which the defendant is bonded to appear or to the sheriff where the defendant was bonded; *in such case the full premium shall be returned within 72 hours after the surrender.*" (Emphasis added). N.C.G.S. § 58-71-20 permits the surrender a defendant without returning the premium within 72 hours after surrender only if defendant commits one or more of the acts set forth under N.C.G.S. § 58-71-20(1)-(7).

8. In order to establish compliance with N.C.G.S. § 58-71-20, a bail bondsman who surrenders a defendant without returning the premium must allege and show that the defendant committed one or more of the acts set forth under N.C.G.S. § 58-71-20(1)-(7) and that such act(s) was (were) the reason why the bondsman did not return the premium within 72 hours of surrendering defendant.

9. N.C.G.S. § 58-71-20(1) permits a bondsman to keep premium upon surrendering a defendant if the defendant "willfully fails to pay the premium to the surety or willfully fails to make a premium payment under the agreement specified in G.S. § 58-71-167."

10. N.C.G.S. § 58-71-167(a) requires the surety to complete a written Memorandum of Agreement between the defendant and surety "[i]n any case where the agreement between principal and surety calls for some portion of the bond premium payments to be deferred or paid after the defendant has been released from custody," and to keep it on file. The written agreement must contain certain terms specified in the statute and "must be *signed by the defendant and the bondsman . . . and dated at the time the agreement is made.*" N.C.G.S. § 58-71-167(b)(Emphasis

added) Respondent failed to complete a written memorandum of agreement signed by Defendant Jones and Respondent in violation of N.C.G.S. § 58-71-167(a).

11. Respondent failed to allege and show that grounds existed under N.C.G.S. §58-71-20(1) for her to keep the premium upon surrendering William Jones. Respondent failed to allege and show that the defendant committed one or more of the other acts set forth under N.C.G.S. § 58-71-20(2)-(7).

12. Respondent violated N.C.G.S. § 58-71-20 by failing to refund the \$2,200.00 in premiums paid by Ms. Jones after surrendering William Jones.

13. Respondent violated N.C.G.S. § 58-71-140(d) by failing to complete the Affidavit of Surety form on the back side of the appearance bond.

14. 11 NCAC 13.0515 provides: "Whenever a fee is received by a bail bondsman a receipt shall be furnished to the defendant. Copies of all receipts issued shall be kept by the bail bondsman. All receipts issued must: (1) be prenumbered by the printer and used and filed in consecutive numerical order, (2) show the name and address of the bail bondsman, (3) show the amount and date paid, (4) show the name of the person accepting payment, (5) show the total amount of the bond for which the fee is being charged and the name of the defendant."

15. Respondent violated 11 NCAC 13.0515 by failing to: (a) furnish a receipt for the third payment collected from Ms. Jones, (b) include Respondent's name and address on the receipts, (c) show the name of the person accepting payment on the receipts, and (d) keep a copy of all premium receipts issued for William Jones.

16. N.C.G.S. § 58-71-168 provides that: "All records related to executing bail bonds, including . . . receipts . . . shall be kept separate from records of any other business and must be maintained for not less than three years after the final entry has been made." Respondent violated N.C.G.S. § 58-71-168 by failing to keep a copy of all premium receipts issued for William Jones.

17. Respondent's violations of N.C.G.S. §§ 58-71-20, 58-71-140(d), 58-71-167, 58-71-168, and 11 NCAC 13.0515 constitute grounds for revocation of her bondsman's license under N.C.G.S. § 58-71-80(a)(7).

18. Respondent demonstrated incompetency or untrustworthiness within the meaning of N.C.G.S. § 58-71-80(a)(8) through her conduct in handling William Jones' bond, her dealings with Ms. Jones, and her responses to the Department's inquiries regarding Ms. Jones' complaint.


19. Respondent's bondsman license should be permanently revoked pursuant to N.C.G.S. § 58-71-80(a)(4), (5), (7), (8) and (14).

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

ORDER

Respondent's license is hereby permanently revoked.

This 5th day of February, 2013.


Stewart L. Johnson, Hearing Officer
N.C. Department of Insurance
1201 Mail Service Center
Raleigh, NC 27699-1201

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing **FINAL AGENCY DECISION** on Respondent by first class mail, addressed as follows:

Chazne Rogers
2216 Lawrence Drive
Raleigh, NC 27603

This the 6th day of February, 2013.



Anne Goco Kirby
Assistant Attorney General
N. C. Department of Justice
9001 Mail Service Center
Raleigh, NC 27699-9001
(919) 716-6610