

**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  
TRINA LASHAUN WARREN**

**ORDER AND FINAL AGENCY  
DECISION REVOKING LICENSE  
Docket Number: 1173**

THIS CAUSE came on to be heard before the undersigned Hearing Officer, as designated by the Commissioner of Insurance pursuant to N.C. Gen. Stat. § 58-2-55, on the 28<sup>th</sup> day of July 2004, pursuant to a notice of hearing that was duly issued and served.

The North Carolina Department of Insurance (hereinafter "Department") was present through representatives of the Department's Agent Services Division, and was represented by Brandon L. Truman, Assistant Attorney General.

This hearing was initially noticed for May 4, 2004, but was continued at the request of Respondent Trina Warren (hereinafter "Respondent") to July 28, 2004.

Respondent failed to appear at the hearing after being duly served with the notice of hearing and the order of continuance.

The Department offered into evidence Exhibits 1-5, 10, 13-14, and 17, and the said Exhibits were admitted into evidence.

After careful consideration of the notice of hearing, Requests for Admissions, the admitted exhibits, and based on the record as a whole, the undersigned Hearing Officer hereby enters the following:

**FINDINGS OF FACT**

1. Respondent has been licensed as a Surety Bondsman by the Department since November 21, 2002.

2. Due to Respondent's failure to appear at the administrative hearing, the undersigned Hearing Officer finds, pursuant to 11 NCAC 1.0423(a)(1), that the allegations set out in the notice of hearing and other pleadings are taken as true and are deemed to be proved without further evidence.

3. On April 19, 2004, the Department duly served upon Respondent Requests for Admissions to which Respondent was required to respond within 15 days of the date of service, pursuant to Rule 36 of the North Carolina Rules of Civil Procedure and 11 NCAC 1.0421. See Exhibit 4. Under Rule 36 of the North Carolina Rules of Civil Procedure, failure to timely respond to Requests for Admissions has the effect of admitting such Requests for Admissions.

4. Respondent failed to respond to the Requests for Admissions that were served upon her on April 19, 2004. The Requests for Admissions are therefore deemed admitted in their entirety.

5. Respondent admitted in Request number 1 that on September 17, 2003, she was convicted in Rowan County District Criminal Court for Misdemeanor Aiding and Abetting Acting as an Unlicensed Bondsman (case number 03 CR 05138), in criminal violation of N.C. Gen. Stat. § 58-71-40. Also See Exhibit 13.

6. On or about August 5, 2003, Respondent, in the conduct of business under her Surety Bondsman license, wilfully and unlawfully failed to return the collateral security of attorney Cecil Whitley of the law firm of Whitley, Castor & Jordan located in Salisbury, North Carolina, in violation of N.C. Gen. Stat. § 58-71-95(5). The amount of the collateral security was \$300.00. In particular, Respondent wilfully and unlawfully failed to return the said collateral security as follows:

A. Respondent admitted in Request number 2 that on or about March 29, 2003, she collected a \$300.00 collateral security from Matilda Munoz Fuentes (hereinafter "Fuentes") on a bond for her son, criminal defendant Isidro Silva Hernandez (hereinafter "Hernandez").

B. Respondent admitted in Request number 3 that Hernandez was represented by attorney Cecil Whitley (hereinafter "Whitley") for his criminal charge that was related to the \$300.00 collateral security she collected from Fuentes.

C. Respondent admitted in Request number 4 that as part of the legal fee arrangement for Whitley's representation of Hernandez, Fuentes assigned Whitley the right to collect the \$300.00 collateral security after the disposition of Hernandez' criminal case.

D. Respondent admitted in Request number 5 that Hernandez reached a final disposition of his criminal case on July 21, 2003.

E. Respondent admitted in Request numbers 6 and 7 that on July 22, 2003, Whitley's office made a demand to Respondent for the return of the \$300.00 collateral security, and Whitley's office provided Respondent with a copy of assignment agreement from Fuentes to Whitley, for the return of the collateral security.

F. Respondent admitted in Request number 8 that on or about July 22, 2003, she orally agreed with Whitley's office to return the \$300.00 collateral security to Whitley.

G. Respondent admitted in Request number 9 that as of September 16, 2003, she had not returned the \$300.00 collateral security to either Whitley or Fuentes.

BASED UPON the foregoing Findings of Fact, the undersigned Hearing Officer makes the following:

### CONCLUSIONS OF LAW

1. This matter is properly before the Commissioner of Insurance, and he has jurisdiction over the parties and the subject matter pursuant to Chapter 58 of the North Carolina General Statutes.

2. Notice in this matter was timely and proper.

3. Pursuant to 11 NCAC 1.0423(a)(1), the allegations set out in the notice of hearing and other pleadings are taken as true and are deemed to be proved without further evidence.

4. The Requests for Admissions duly served upon Respondent on April 19, 2004, are properly deemed to be admitted.

5. Respondent's conviction of Misdemeanor Aiding and Abetting Acting as an Unlicensed Bondsman in Rowan County District Criminal Court case number 03 CR 05138 constitutes grounds for the Commissioner to revoke Respondent's Surety Bondsman license under N.C. Gen. Stat. § 58-71-80(a)(2), which provides that the Commissioner may revoke a Surety Bondsman license for a conviction of any misdemeanor committed in the course of dealings under the license issued by the Commissioner.

6. Respondent's conviction of Misdemeanor Aiding and Abetting Acting as an Unlicensed Bondsman in Rowan County District Criminal Court case number 03 CR 05138

constitutes grounds for the Commissioner to revoke Respondent's Surety Bondsman license under N.C. Gen. Stat. § 58-71-80(a)(14), which provides that the Commissioner may revoke a Surety Bondsman license for knowingly aiding or abetting others to evade or violate the provisions of this Article.

7. Respondent's failure to return the \$300.00 collateral security to Whitley constitutes grounds for the Commissioner to revoke Respondent's Surety Bondsman license under N.C. Gen. Stat. §§ 58-71-80(a)(7) and 58-71-95(5), which provide that the Commissioner may revoke a Surety Bondsman license for failure to return collateral security within 72 hours after the final termination of liability on the bond.

8. Respondent's failure to return the \$300.00 collateral security to Whitley constitutes grounds for the Commissioner to revoke Respondent's Surety Bondsman license under N.C. Gen. Stat. § 58-71-80(a)(4), which provides that the Commissioner may revoke a Surety Bondsman license for misappropriation, conversion or unlawful withholding of moneys belonging to insurers or others and received in the conduct of business under the license.

9. Respondent's failure to return the \$300.00 collateral security to Whitley constitutes grounds for the Commissioner to revoke Respondent's Surety Bondsman license under N.C. Gen. Stat. § 58-71-80(a)(8), which provides that the Commissioner may revoke a Surety Bondsman license if the licensee has in the conduct of licensee's affairs under the license, demonstrated incompetency, financial irresponsibility, or untrustworthiness; or that the licensee is no longer in good faith carrying on the bail bond business.

ORDER

BASED UPON the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Respondent Trina Warren's Surety Bondsman license be PERMANENTLY REVOKED.

This 30<sup>th</sup> day of August 2004.



~~Peter~~ A. Kolbe, Hearing Officer  
North Carolina Department of Insurance  
1201 Mail Service Center  
Raleigh, North Carolina 27699-1201

Appeal Rights:

This Order, which is considered a Final Agency Decision, may be appealed to Superior Court within 30 days of receipt of this Order, as set out in Chapter 150B of the North Carolina General Statutes.

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that I have this day served the foregoing ORDER AND FINAL AGENCY DECISION REVOKING LICENSE by certified mail, return receipt requested, first class postage prepaid, addressed as follows:

Trina Warren  
2547 Glenwood Street  
Kannapolis, North Carolina 28081

This 2<sup>nd</sup> day of September 2004.

ROY COOPER  
ATTORNEY GENERAL

By: \_\_\_\_\_

  
Brandon L. Truman  
Assistant Attorney General  
Insurance Section  
North Carolina Department of Justice  
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