

**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
VASHTI WASHINGTON**

**ORDER AND FINAL AGENCY
DECISION REVOKING LICENSE
Docket Number: 1176**

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 6th day of October 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.

Respondent Vashti Washington (hereinafter "Respondent") was present, and represented himself after being duly advised of his right to counsel, and after affirming to the undersigned Hearing Officer that he understood his right to be represented by counsel.

This hearing was initially noticed for August 25, 2004, but was continued at the request of Respondent to October 6, 2004.

After careful consideration and based on the testimony presented, the exhibits introduced, and 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 July 18, 2000.

2. On or about February 21, 2003, Respondent collected a \$500.00 collateral security from Robert Ouellette (hereinafter "Ouellette"), for Respondent's bonding services regarding Ouellette's charge of Driving While Impaired in Wake County District Criminal Court case number 03 CR 17741.

3. Ouellette reached a final disposition of his case on or about July 3, 2003.

4. Subsequent to July 3, 2003, Ouellette contacted Respondent repeatedly by telephone and by mail to request the return of the \$500.00 collateral security.

5. Respondent orally agreed with Ouellette to return the \$500.00 collateral security to Ouellette.

6. Respondent did not return the \$500.00 collateral security to Ouellette within 72 hours after the final disposition of Ouellette's case.

7. The Agent Services Division of the North Carolina Department of Insurance made numerous attempts to contact Respondent by telephone concerning Ouellette's allegations. Respondent did not respond to Agent Services' telephone messages.

8. On October 27, 2003, Agent Services mailed Respondent a letter setting forth allegations from Ouellette that Respondent had not returned the \$500.00 collateral security. The letter requested the immediate return of the collateral security to Ouellette, and the letter requested Respondent to provide Agent Services with a written notarized response within 10 days, concerning Ouellette's allegations. Respondent testified that he resides at 5539 Brookdale

Road, Norfolk, Virginia 23502, and that he did not receive the October 27, 2003, letter. Respondent testified that he has resided in Virginia for at least 1 year.

9. On or about October 28, 2003, Respondent orally told a representative from Agent Services that he would return the \$500.00 collateral security to Ouellette within the next 30 days.

10. Respondent, as of the date of this administrative hearing, has not returned the \$500.00 collateral security to Ouellette.

11. Respondent testified that he did not place Ouellette's \$500.00 collateral security in a trust account, and that he never maintained a trust account as a normal business practice.

12. Respondent testified that, as of the date of this administrative hearing, he does not have the money to return the \$500.00 collateral security to Ouellette.

13. Respondent testified that he has been unable to return the \$500.00 collateral security to Ouellette because of reasons of financial hardship.

14. Respondent testified that he could not estimate when he would be able to return the \$500.00 collateral security to Ouellette.

15. Respondent has used Ouellette's \$500.00 collateral security to pay for Respondent's own personal expenses.

16. On or about July 8, 2003, Respondent, in the conduct of business under his Surety Bondsman license, willfully violated N.C. Gen. Stat. § 58-71-95(5) by failing to return \$500.00 of collateral security to Robert Ouellette within 72 hours after the final disposition of Ouellette's case.

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. Respondent's failure to return the \$500.00 collateral security to Ouellette 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.
4. Respondent's failure to return the \$500.00 collateral security to Ouellette and Respondent's use of Ouellette's \$500.00 collateral security to pay for Respondent's own personal expenses constitute 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.
5. Respondent's failure to return the \$500.00 collateral security to Ouellette and Respondent's use of Ouellette's \$500.00 collateral security to pay for Respondent's own personal expenses constitute 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 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 Vashti Washington's Surety Bondsman license is hereby REVOKED, and that he return the \$500.00 collateral security to Ouellette within 30 days of receipt of this Order. Respondent shall furnish Agent Services with proof the Ouellette has received payment of the \$500.00 collateral security.

This 3rd day of November 2004.


Stewart L. Johnson, 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:

Vashti Washington
2400 Paula Street, Suite B
Raleigh, North Carolina 27608

Vashti Washington
5539 Brookdale Road
Norfolk, Virginia 23502

This 4th day of November 2004.

ROY COOPER
ATTORNEY GENERAL

By:



Brandon L. Truman
Assistant Attorney General
Insurance Section
North Carolina Department of Justice
9001 Mail Service Center
Raleigh, North Carolina 27699-9001