

**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 ROBERT A. WEST, JR.
LICENSE NO. 0008392506**

**VOLUNTARY SETTLEMENT
AGREEMENT**

NOW COME, Robert A. West, Jr. (hereinafter "Mr. West") and the North Carolina Department of Insurance (hereinafter "Department"), and hereby voluntarily and knowingly enter into the following Voluntary Settlement Agreement (hereinafter "this Agreement"):

WHEREAS, the Department has the authority and responsibility for the enforcement of the insurance laws of this State, and for regulating and licensing bail bondsmen; and

WHEREAS, Mr. West holds active licenses as a professional and surety bail bondsman issued by the Department; and

WHEREAS, pursuant to N.C. Gen. Stat. § 58-71-80(a)(5), 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 fraudulent, coercive, or dishonest practices in the conduct of business or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or any other jurisdiction; and

WHEREAS, Mr. West wrote two bonds of \$15,000 each for Justin Emmons in Harnett County, both having the same court file number 16CR 055594, using his Professional Seal Number 1485912, and the other was posted using Accredited Power Number AC-00952499; and

WHEREAS, Mr. West testified under oath on or about May 20, 2019 in the trial for the Gettlemans (indemnitors) that there was no insurance company involved in the bonds and that Mr. Emmons was making payments as required on his bonds, but the affidavits he filed on the Appearance Bonds for Pretrial Release (ABPR) and the receipts provided to the Department by Mr. West indicated that he received \$750 on receipt number 10350 for one bond and \$1,350 on receipt number PIP-0070955 on the other and that no additional premium was due; and Mr. West represented to the Department that he in his statement dated July 1, 2019 that he accepted \$300.00 in cash from Mr. Emmons when he was released and received an additional \$280.00 the next day and forgave the remaining \$20.00 owed; and

WHEREAS, Mr. West failed to complete a Memorandum of Agreement as required by N.C. Gen. Stat. § 58-71-167 for situations where the principal and the surety have an agreement for some portion of the bond premiums to be deferred or paid after the defendant has been released from custody; and

WHEREAS, such actions on the part of Mr. West reflect fraudulent, coercive, or dishonest practices in the conduct of business or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or any other jurisdiction, which is a basis for denying, placing on probation, suspending or revoking a bail bondsman's license as set forth in N.C. Gen. Stat. § 58-71-80(a)(5); and

WHEREAS, N.C. Gen. Stat. § 58-71-140 (d) provides that professional bondsmen, surety bondsmen, and runners shall file with the clerk of court having jurisdiction over the principal and affidavit on a form furnished by the Administrative Office of the Courts which shall include but not limited to: (1) If applicable, a statement that the bondsman has not, nor has anyone for the bondsman's use, been promised or received any collateral security or premium for executing this appearance bond; (2) If promised a premium, the amount of premium promised and the due date; (3) If the bondsman has received a premium, the amount of the premium received; (4) If given collateral security, the name of the person from whom it is received and the nature and amount of the collateral security listed in detail; and

WHEREAS, Mr. West did not comply with the provisions of N.C. Gen. Stat. § 58-71-140 (d) in that he incorrectly completed the Appearance Bonds for Pretrial Release (ABPR) for Mr. Emmons by not disclosing thereon that he had received a \$1,500.00 premium before bonding out Mr. Emmons, and that he did not receive any money on the second bond until after Mr. Emmons was released; both affidavits should have had Box 2 checked since premiums had been promised for each bond and the amount of premium promised should have been included in the appropriate box. In addition, Box 4 of the affidavit should have been checked in that collateral was taken in the form of an Indemnity Agreement, and the collateral section of the form should have been completed; and

WHEREAS, N.C. Gen. Stat. § 58-71-165 provides:

- (a) Each professional bail bondsman shall file with the Commissioner a written report in a form prescribed by the Commissioner regarding all bail bonds written on which the bondsman is liable as of the first day of each month showing (i) each individual bonded, (ii) the date the bond was given, (iii) the principal sum of the bond, (iv) the State or local official to whom given, and (v) the fee charged for the bonding service in each instance.
- (b) Each insurer that appoints surety bondsmen in this State shall file with the Commissioner a written report in a form prescribed by the Commissioner regarding all bail bonds on which the insurer is liable as of the last day of each calendar quarter showing the total dollar amount for which the insurer is liable. The report shall be filed on or before the fifteenth day following the

end of each calendar quarter.

- (c) The reports required by subsection (a) of this section shall be filed on or before the fifteenth day of each month.
- (d) Any person who knowingly and willfully falsifies a report required by this section is guilty of a Class I felony.

WHEREAS, records obtained by the Department showed that Mr. West surrendered Mr. Emmons on March 15, 2018 for violating an order of the court and for changing his address but failed to report the bond, written on his professional seal number 1485912, on his February 2018 monthly report; a bond written on Ms. Kaleen Emmons (Harnett Co., 17CR 050954) was disposed on February 15, 2018 was not included on his January 2018 report; a bond for Marc Gettleman, II (Harnett Co., 15CR 051808) was disposed on May 3, 2015 but was not included on his July 2015 report; and a review of Mr. West's bail bond register indicated that he set the formulas for all premiums at 15%, making several years of his reports intentionally inaccurate; all actions constituting violation of the provisions of N.C. Gen. Stat. § 58-71-165; and

WHEREAS, Mr. West's violations of N.C. Gen. Stat. §§ 58-71-140 (d), and 58-71-165 demonstrate a failure to comply with and/or a violation of the provisions of Article 71 of Chapter 58 of the North Carolina General Statutes for which Mr. West's surety bondsman license could be revoked, suspended or not renewed pursuant to N.C. Gen Stat. §§ 58-71-80(a)(5) and (a)(7); and

WHEREAS, 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 of Chapter 58 of the North Carolina General Statutes or of any order, rule or regulation of the Commissioner; and

WHEREAS, Mr. West admits to the violations set out herein; and

WHEREAS, in lieu of an administrative hearing on the matters stated herein, Mr. West has agreed to settle, compromise, and resolve the matters referenced in this Agreement, and the Department has agreed not to pursue additional penalties, sanctions, remedies, or restitution based on these matters against Mr. West; and

WHEREAS, pursuant to N.C. Gen. Stat. § 58-2-70(g), the Commissioner of Insurance and the Department have the express authority to negotiate a mutually acceptable agreement with any person as to the status of the person's license or certificate or as to any civil penalty or restitution; and

NOW, THEREFORE, in consideration of the promises and agreements set out herein, the Department and Mr. West hereby agree to the following:

1. Immediately upon his signing of this document, Mr. West shall pay a **civil penalty of \$1500.00** to the Department. The form of payment shall be in a certified check, cashier's check or money order. The check or money order for the payment of this civil penalty shall be payable to the "North Carolina Department of Insurance." Mr. West shall send the civil penalty by certified mail, return receipt requested, to the Department simultaneously with the return of this Agreement, signed by Mr. West. The civil penalty and the signed Agreement must be received by the Department no later than **December 23, 2019**. The civil penalty shall be subject to disbursement in accordance with the provisions of Article IX, Section 7 of the North Carolina Constitution for the benefit of the public schools.
2. As a condition of continuing to be licensed as a surety bail bondsman, Mr. West will be required to comply with the provisions of N.C. Gen. Statute § 58-71-71(a) and retake and complete at least 12 hours of education as provided by an approved provider in subjects pertinent to the duties and responsibilities of a bail bondsman including all laws and regulations related to being a bail bondsman, to be completed no later than February 25, 2020, and submit documented verification of such completion to the Department. Such pre-licensing education will be in lieu of and satisfy the requirements of N.C. Gen. Statute § 58-71-71(b).
3. Mr. West shall obey all laws and regulations applicable to all licenses issued to him.
4. Mr. West enters into this Agreement freely and voluntarily and with knowledge of his right to have an administrative hearing on this matter. Mr. West understands that he may consult with an attorney prior to entering into this Agreement.
5. This Agreement does not in any way affect the Department's disciplinary power in any future follow-up examinations of Mr. West, or in any other cases or complaints involving Mr. West.
6. The parties to this Agreement agree that this Agreement shall have the full force and effect of an Order of the Commissioner. Mr. West understands that N. C. Gen. Stat. § 58-71-80(a)(7) provides that a surety bondsman's license may be revoked for violating an Order of the Commissioner.
7. This Voluntary Settlement Agreement, when finalized, will be a public record and is not confidential. Any and all licenses issued by the Department to the licensee shall reflect that Regulatory Action has been taken against the licensee following

the execution of this Agreement. The Department is free to disclose the contents of this Agreement to third parties upon request or pursuant to any law or policy providing for such disclosure. The Department routinely provides copies of voluntary settlement agreements to all companies that have appointed the licensee.

8. This Settlement Agreement shall become effective when signed by Mr. West and the Department.

N. C. Department of Insurance



By: Robert A. West, Jr.
License No. 0008392506



By: Marty Sumner
Senior Deputy Commissioner

Date: 12-16-19

Date: 12/30/19