

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  
JOSEPH W. WHITE, III  
(NPN # 8392457)

Respondent.

ORDER AND  
FINAL AGENCY DECISION  
Docket Number: 1833

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**THIS MATTER** was heard on October 18, 2017 and January 25, 2018 by the undersigned Hearing Officer, designated by the North Carolina Commissioner of Insurance (“Commissioner”) under N.C. Gen. Stat. § 58-2-55, pursuant to a Notice of Administrative Hearing that was duly issued and served on Respondent Joseph W. White, III.

Petitioner Bail Bond Regulatory Division (“BBRD”) of the North Carolina Department of Insurance (“NCDOI”) was present at the hearing and was represented by Terence D. Friedman, Assistant Attorney General. NCDOI employee Steven Bryant testified at the hearing.

Respondent, proceeding *pro se*, appeared at the hearing.

BBRD offered into evidence Petitioner’s Exhibits 1 through 52, which were admitted into evidence.

Respondent did not offer into evidence any exhibits.

BASED UPON careful consideration of the evidence and arguments presented, and based upon the entire record in the proceeding, the Hearing Officer hereby makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. NCDOI is a state agency responsible, in accordance with Chapter 58 of the North Carolina General Statutes, for enforcement of the insurance laws of North Carolina and for regulating and licensing professional and surety bail bondsmen.

2. Respondent held a license as a professional bail bondsman during the period at issue in this action – January 2012 until June 2017 (“Period at Issue”). Additionally, Respondent still holds a license as a surety bondsman.

3. During the Period at Issue, Respondent sponsored and employed bail bond runners to write some of his bonds. Respondent admitted at the hearing that he exercised little to no actual oversight of these runners.

4. For example, Respondent admitted he rarely, if at all, maintained copies of the bonds his runners wrote for him or the premium receipts they gave to criminal defendants for payments on such bonds. Further, Respondent admitted that he almost never checked the entries his runners made on his monthly reports or bail bond register against the underlying documents for those entries, such as the bonds, receipts or records showing when Respondent’s liabilities on the bonds the runners wrote were terminated. Indeed, Respondent admitted he failed to check his runners’ report entries against the underlying documents even where there were facially obvious errors in the reports, such as where the bond amounts and fees entered were identical.

5. N.C. Gen. Stat. § 58-71-65 requires an applicant to become a runner to show:

- (1) That the applicant will be employed by only one *professional bondsman, who will supervise the work of the applicant and be responsible for the runner's conduct in the bail bond business.*
- (2) That the application is endorsed by the appointing *professional bondsman, who must agree in the application to supervise the runner's activities.*

(Emphasis added). N.C. Gen. Stat. § 58-71-65 makes Respondent legally responsible for any of the statutory and regulatory violations addressed below which were committed by his runners, and the Hearing Officer will refer hereafter to all such violations as Respondent’s violations.

### Monthly Reports

6. Pursuant to N.C. Gen. Stat. § 58-71-165(a):

Each professional bail bondsman shall file with the Commissioner a written report in a form prescribed by the Commissioner regarding all bail bonds 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.

7. 11 NCAC 13 .0505, entitled "Bail Bond Certification Seal," states:

No professional bail bondsman or his duly appointed runner shall sign a bail bond unless he affixes thereto a "certification seal." The certification seal shall be affixed to the bail bond in the space provided for it on the bail bond form supplied by the Administrative Office of the Courts. Certification seals will be supplied to the professional bondsman by the Commissioner of Insurance upon request. Each certification seal shall bear the wording "North Carolina Department of Insurance" and an identifying number.

8. The evidence presented at the hearing established that, in his monthly reports for the Period at Issue, Respondent never reported six (6) of his bonds.

9. The evidence presented at the hearing also established that, in his monthly reports for the Period at Issue, Respondent incorrectly reported the amount of 15 of his bonds. For 13 out of these 15 bonds, Respondent underreported the amount of the bonds.

10. The evidence presented at the hearing also established that, in his monthly reports for the Period at Issue, Respondent removed 24 of his previously reported bonds from his monthly reports before his liability on those bonds had expired.

11. Respondent admitted at the hearing that he intentionally removed 11 of these 23 previously reported bonds from his amended May 2012 report and any necessary reports thereafter in order to avoid statutory violations of N.C. Gen. Stat. § 58-71-145, addressed below. Respondent denied, however, that he had intentionally removed the remaining 12 reported bonds from his monthly reports before his liability on the bonds had ended.

12. Likewise, Respondent denied that he intentionally underreported the amounts of bonds in his monthly reports, even where he did so as to bonds he personally wrote (as opposed to ones written on his behalf by his runners). Respondent conceded his suspicion, however, that his runners might have intentionally underreported or failed to report bonds in Respondent's monthly reports.

13. From his unique perspective as fact-finder, the Hearing Officer does not find credible Respondent's denials that he intentionally removed the 12 remaining bonds, underreported bonds or failed to report bonds. In particular, Respondent admitted he was willing to falsify information on at least some of his monthly reports, which leads to a reasonable inference that he did the same in other monthly reports. Further, Respondent conceded his own suspicion that his runners – whose conduct is imputable to him as a matter of law – falsified information in Respondent's monthly reports. Finally, the patterns of when bonds were removed, underreported or not reported at all in the reports support a finding that such errors or omissions were knowing and intentional.

14. The evidence presented at the hearing also established that, in his monthly reports for the Period at Issue, Respondent incorrectly reported the fee for 11 of his bonds.

15. The evidence presented at the hearing also established that, in his monthly reports for the Period at Issue, Respondent incorrectly reported the bail bond certification seal number for one of his bonds.

#### **Bail Bond Register Entries**

16. 11 NCAC 13 .0506, entitled "Bail Bond Register," states:

Each professional bail bondsman shall keep at his place of business a bail bond register which shall be a numerically ordered listing of each certification seal used by the professional bail bondsman or his duly appointed runner. The bail bond register shall contain the certification seal number, the name of the principal for whom the bond was signed, the county in which the bond was signed, the amount of the bond, the amount of the fee charged by the professional bail bondsman or his duly appointed runner and the number of the receipt given for amount of the fee charged by the bail bondsman. The bail bond register shall be kept up to date daily by the professional bondsman.

17. The evidence presented at the hearing established that, in his bail bond register for the Period at Issue, Respondent never reported six (6) of his bonds.

18. The evidence presented at the hearing also established that, in his bail bond register for the Period at Issue, Respondent incorrectly reported the amount of five (5) of his bonds.

19. The Hearing Officer finds that Respondent's instances of underreporting and failing to report bonds in his bail bond register were knowing and intentional.



As noted, Respondent admitted he was willing to falsify information in his monthly reports, which leads to a reasonable inference that he was also willing to do the same in his bail bond register. Further, Respondent underreported bonds that he personally wrote in his bail bond register, and he conceded his own suspicion that his runners – whose conduct is imputable to him as a matter of law – falsified information in Respondent's bail bond register. Finally, the patterns of when bonds were underreported or not reported at all in the bail bond register support a finding that such errors or omissions were knowing and intentional.

20. The evidence presented at the hearing also established that, in his bail bond register for the Period at Issue, Respondent incorrectly reported the fee for seven (7) of his bonds.

21. The evidence presented at the hearing also established that, in his bail bond register for the Period at Issue, Respondent incorrectly reported the bail bond certification seal number for four of his bonds.

22. The evidence presented at the hearing also established that, in his bail bond register for the Period at Issue, Respondent incorrectly reported the county of origin for one (1) of his bonds.

#### One-Fourth Violations

23. Pursuant to N.C. Gen. Stat. § 58-71-175: "No professional bondsman shall become liable on any bond or multiple of bonds for any one individual that totals more than one-fourth of the value of the securities deposited with the Commissioner at that time, until final termination of liability on such bond or multiple of bonds."

24. The evidence presented at the hearing established that, during the Period at Issue, the amount of Respondent's securities on deposit with the Commissioner varied from \$24,165.00 to \$26,245.00 per month.

25. Pursuant to N.C. Gen. Stat. § 58-71-175, based on the amount of Respondent's securities on deposit with the Commissioner during the Period at Issue, the maximum amount of any bond or multiple of bonds for any one individual for which Respondent could become liable varied from \$6,041.25 to \$6,061.25.

26. The evidence presented at the hearing established that, on November 1, 2011, Respondent became liable on a \$10,000.00 professional bond for Robbie Knowles in Pitt County file numbers 11-CR-59129, 11-CR-59165 and 11-CR-59166 using Respondent's professional seal number 1201751, and that Respondent remained liable for this bond until on or about May 6, 2013. This \$10,000.00 bond was in excess of one-fourth of the value of the securities Respondent had on deposit during the period Respondent was liable on the bond.

27. The evidence presented at the hearing also established that Respondent initially reported the Knowles bond but underreported its amount by \$9,000.00. Further, the Knowles bond was among the bonds that Respondent admitted removing from his amended May 2012 report and any necessary reports thereafter in order to avoid violations of N.C. Gen. Stat. § 58-71-145, addressed below.

28. The evidence presented at the hearing also established that, on November 10, 2011, Respondent became liable on a \$4,000.00 professional bond for Donald Debreaux in Northampton County file number 11-CR-50773 using Respondent's professional seal number 1223809 and that, on November 11, 2011, Respondent became liable on a separate \$3,000.00 professional bond for Mr. Debreaux in Northampton County file number 11-CR-50918 using Respondent's professional seal number 1223810. Respondent remained liable for these bonds until on or about June 26, 2012. The sum of these two bonds – \$7,000.00 – was in excess of one-fourth of the value of the securities Respondent had on deposit during the period Respondent was liable on the bonds.

29. The evidence presented at the hearing also established that, for those months that he reported the first Debreaux bond, Respondent underreported the bond's amount by \$3,000.00. Further, the two Debreaux bonds were among the bonds that Respondent admitted removing from his amended May 2012 report and any necessary reports thereafter in order to avoid violations of N.C. Gen. Stat. § 58-71-145, addressed below.

30. The evidence presented at the hearing also established that, on February 22, 2012, Respondent became liable on a \$25,000.00 professional bond for Jose Aguilar in Pitt County file numbers 11-CR-059538 and 11-CR-059539 using Respondent's professional seal number 1235589. Respondent remained liable for this bond until at least October 12, 2017, when a writ of execution on the bond was issued. This \$25,000.00 bond was in excess of one-fourth of the value of the securities Respondent had on deposit during the period Respondent was liable on the bond.

31. The evidence presented at the hearing also established that Respondent initially reported the Aguilar bond but underreported its amount by \$22,500.00, and that Respondent failed to include the Aguilar bond in his bail bond register. Further, the Aguilar bond was among the bonds that Respondent admitted removing from his amended May 2012 report and the reports thereafter in order to avoid violations of N.C. Gen. Stat. § 58-71-145, addressed below.

32. The evidence presented at the hearing established that, on July 10, 2014, Respondent became liable on a \$25,000.000 professional bond for Cody Bacote in Pitt County file number 14-CRS-55535 using Respondent's professional seal number 1375221. Respondent never included the bond for Mr. Bacote in his monthly



reports or his bail bond register and remained surety on the bond until on or about July 29, 2015. This \$25,000.00 bond was in excess of one-fourth the value of the securities Respondent had on deposit during the period Respondent was liable on the bond.

33. The Hearing Officer finds that Respondent's underreporting of or failure to report these four bonds in his reports and, where noted, his bail bond register was knowing and intentional attempts to hide the fact that the bonds were for more than one-fourth of the value of the securities Respondent had on deposit. As noted, Respondent admitted he was willing to falsify information in his monthly reports in an attempt to cover up violations of N.C. Gen. Stat. § 58-71-145, which leads to a reasonable inference that he was also willing to do the same in his reports and bail bond register to cover up violations of N.C. Gen. Stat. § 58-71-175.

34. Respondent also conceded his own suspicion that his runners – whose conduct is imputable to him as a matter of law – falsified information in Respondent's reports and bail bond register. Finally, the patterns of when bonds were underreported or not reported at all support a finding that such errors or omissions were knowing and intentional.

#### One-Eighth Violations

35. Pursuant to N.C. Gen. Stat. § 58-71-145:

Each professional bondsman acting as surety on bail bonds in this State shall maintain a deposit of securities with and satisfactory to the Commissioner of a fair market value of at least one-eighth the amount of all bonds or undertakings written in this State on which he is absolutely or conditionally liable as of the first day of the current month. The amount of the deposit must be reconciled with the bondsman's liabilities as of the first day of the month on or before the fifteenth day of said month and the value of said deposit shall in no event be less than fifteen thousand dollars (\$15,000.00).

36. The evidence presented at the hearing established that, from January 2012 through December 2015, the amount of Respondent's securities on deposit with the Commissioner varied from \$26,172.00 to \$26,222.00 per month.

37. Pursuant to N.C. Gen. Stat. § 58-71-145, based on the amount of Respondent's securities on deposit with the Commissioner, the maximum amount of all bonds or undertakings on which Respondent could have been liable from January 2012 through December 2015 varied from \$209,376.00 to \$209,776.00 per month.

38. The evidence presented at the hearing established that, for 22 of the 44 months between January 2012 and August 2015, Respondent failed to maintain on deposit with the Commissioner a fair market value of at least one-eighth the amount of all bonds or undertakings written in this State on which Respondent was absolutely or conditionally liable. In these 22 months, Respondent was constantly liable for at least \$10,000.00 more than his maximum permissible liability under N.C. Gen. Stat. § 58-71-145.

39. As noted above, Respondent admitted at the hearing that he intentionally removed 11 professional bonds from his amended May 2012 report in order to avoid statutory violations of N.C. Gen. Stat. § 58-71-145. Respondent's knowing removal of these bonds contributed to some of his violations of N.C. Gen. Stat. § 58-71-145. Additionally, Respondent regularly underreported the amounts of bonds or failed to report bonds in his monthly reports between January 2012 and August 2015, which contributed to some of his violations of N.C. Gen. Stat. § 58-71-145.

40. The Hearing Officer finds that many of the bonds at issue were knowingly and intentionally underreported or omitted in Respondent's monthly reports and bail bond register so as to avoid statutory violations of N.C. Gen. Stat. § 58-71-145. As noted, Respondent admitted he was willing to falsify information in at least some of his monthly reports in an attempt to cover up violations of N.C. Gen. Stat. § 58-71-145, which leads to a reasonable inference that he was willing to do the same as to other monthly reports. Respondent also conceded his own suspicion that his runners – whose conduct is imputable to him as a matter of law – falsified information in Respondent's reports and bail bond register. Finally, the patterns of when bonds were underreported or not reported at all support a finding that such errors or omissions were knowing and intentional.

#### **Affidavit of Surety Violations**

41. N.C. Gen. Stat. § 58-71-140(d) requires that bail bondsmen file an Affidavit of Surety with the court for every surety appearance bail bond they execute. N.C. Gen. Stat. §§ 58-71-140(d)(2) through (d)(4) require, respectively, that this Affidavit of Surety identify “the amount of the premium promised and the due date,” the “amount of premium received,” and, if the bondsman requires “collateral security, the name of the person from whom it is received and the nature and amount of the collateral security listed in detail.”

42. The evidence presented at the hearing established that, during the Period at Issue, Respondent failed to correctly fill out eight Affidavits of Surety.



### Missing Bail Bond Certification Seals

43. The evidence presented at the hearing established that the NCDOI issued 1,821 bail bond certification seal numbers to Respondent which were never reported in either Respondent's monthly reports or his bail bond register and about which Respondent could present no records whatsoever. The NCDOI was made aware that at least some of these missing seals were actually used to write bonds only when county courts advised the NCDOI that writs of execution had been issued on the bonds.

44. N.C. Gen. Stat. § 58-71-80(a)(5) permits the Commissioner to revoke a bail bondsman's license for "(f)raudulent, 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."

45. N.C. Gen. Stat. § 58-71-80(a)(7) permits the Commissioner to revoke a bail bondsman's license for "(f)ailure to comply with or violation of the provisions" of Article 71 of Chapter 58 of the North Carolina General Statutes or of any order, subpoena, rule or regulation of the Commissioner or person with similar regulatory authority in another jurisdiction."

46. N.C. Gen. Stat. § 58-71-80(a)(8) in pertinent part permits the Commissioner to revoke a bail bondsman's license "[w]hen in the judgment of the Commissioner, the licensee has in the conduct of the licensee's affairs under the license, demonstrated incompetency, financial irresponsibility, or untrustworthiness."

47. N.C. Gen. Stat. § 58-71-80(d) provides:

The Commissioner shall retain the authority to enforce the provisions of, and impose any penalty or remedy authorized by, this Chapter against any person who is under investigation for or charged with a violation of this Chapter even if the person's license or registration has been surrendered or has lapsed.

48. N.C. Gen. Stat. § 58-71-82 provides in pertinent part:

If an individual holds a professional bondsman's license or a runner's license and a surety bondsman's license simultaneously, they are considered one license for the purpose of disciplinary actions involving suspension, revocation, or nonrenewal under this Article. . .

49. Pursuant to N.C. Gen. Stat. § 58-71-168: "All records related to executing bail bonds, including bail bond registers, monthly reports, receipts, collateral security agreements, and memoranda of agreements, 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." Each instance described above in which Respondent failed to create and maintain accurate monthly reports constitutes a separate violation of N.C. Gen. Stat. § 58-71-168.

### CONCLUSIONS OF LAW

1. This matter is properly before the Commissioner, and he has jurisdiction over the parties and the subject matter.

2. Respondent was properly served with the Notice of Administrative Hearing in this matter.

3. Each error and omission in Respondent's monthly reports described above constitutes a separate violation of N.C. Gen. Stat. § 58-71-165(a).

4. Each error and omission in Respondent's bail bond register entries described above constitutes a separate violation of 11 NCAC 13 .0506. Additionally, each instance described above in which Respondent failed to create and maintain accurate bail bond register entries constitutes a separate violation of N.C. Gen. Stat. § 58-71-168.

5. Each month in which Respondent remained liable for each of the Knowles, Debreaux, Aguilar and Bacote bonds constitutes a separate violation of N.C. Gen. Stat. § 58-71-175.

6. Each of the 22 months described above in which Respondent failed to maintain on deposit with the Commissioner a fair market value of at least one-eighth the amount of all bonds or undertakings written in this State on which Respondent was absolutely or conditionally liable constitutes a separate violation of N.C. Gen. Stat. § 58-71-145.

7. Each of the eight incomplete Affidavits of Surety described above constitutes a separate violation of N.C. Gen. Stat. § 58-71-140(d). Additionally, each of these instances when Respondent failed to create and maintain accurate Affidavits of Surety constitutes a separate violation of N.C. Gen. Stat. § 58-71-168.

8. For each of the 1,821-missing bail bond certification seals, Respondent committed separate violations of N.C. Gen. Stat. § 58-71-168.

9. Pursuant to N.C. Gen. Stat. § 58-71-80(d), the Commissioner still



retains the authority to apply the bail bonding laws to Respondent with regard to his professional bail bondsman activities even though his professional bail bondsman license has lapsed.

10. Pursuant to N.C. Gen. Stat. § 58-71-82, Respondent's activities under his now-lapsed professional bail bondsman's license are attributable to his still-active surety bail bondsman's license because the two licenses are considered one and the same.

11. Respondent's violations of N.C. Gen. Stat. §§ 58-71-140(d), 58-71-165(a), 58-71-168, 58-71-175 and 11 NCAC 13 .0506 described above constitute fraudulent or dishonest practices in the conduct of business or demonstrate incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this State. The Hearing Officer finds that Respondent's professional and surety bail bondsman licenses should be revoked under N.C. Gen. Stat. § 58-71-80(a)(5).

12. The Hearing Officer finds that Respondent's professional and surety bail bondsman licenses should be revoked under N.C. Gen. Stat. § 58-71-80(a)(7) based on Respondent's violations described above of N.C. Gen. Stat. §§ 58-71-140(d), 58-71-165(a), 58-71-168, 58-71-175 and 11 NCAC 13 .0506.

13. Respondent's violations of N.C. Gen. Stat. §§ 58-71-140(d), 58-71-165(a), 58-71-168, 58-71-175 and 11 NCAC 13 .0506 described above constitute incompetency, financial irresponsibility or untrustworthiness in the conduct of Respondent's affairs under his professional and surety bail bondsman licenses. The Hearing Officer finds that Respondent's professional and surety bail bondsman licenses should be revoked under N.C. Gen. Stat. § 58-71-80(a)(8).

### **ORDER**

Based upon the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Respondent's professional and surety bail bondsman licenses be REVOKED.

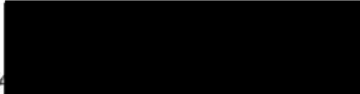
### **APPEAL RIGHTS**

This is a Final Agency Decision issued under the authority of N.C. Gen. Stat. § 150B, Article 3A.

Under the provisions of N.C. Gen. Stat. § 150B-45, any party wishing to appeal a final decision of the North Carolina Department of Insurance must file a Petition for Judicial Review in the Superior Court of the County where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, the county where the contested case which resulted in the final decision was

filed. The appealing party must file the petition within 30 days after being served with a written copy of the Order and Final Agency Decision. In conformity with the 11 NCAC 01 .0413 and N.C. Gen. Stat. § 1A-1, Rule 5, this Order and Final Agency Decision was served on the parties on the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Order and Final Agency Decision. N.C. Gen. Stat. § 150B-46 describes the contents of the Petition, including explicitly stating what exceptions are taken to the decision or procedure and what relief the petitioner seeks, and requires service of the Petition by personal service or by certified mail upon all who were parties of record to the administrative proceedings. The mailing address to be used for service on the Department of Insurance is: A. John Hoomani, General Counsel, 1201 Mail Service Center, Raleigh, NC 27699-1201.

This the 15<sup>th</sup> day of October, 2018

  
A. John Hoomani, Hearing Officer



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this day served a copy of the foregoing ORDER AND FINAL AGENCY DECISION by mailing a copy of the same via certified U.S. Mail, return receipt requested, in a first-class postage prepaid envelope, and via State Courier, addressed as follows:

Terence D. Friedman  
Assistant Attorney General  
N.C. Department of Justice –  
Insurance Section  
P.O. Box 629  
Raleigh, NC 27602

Attorney for Petitioner

Joseph W. White, III  
120 Red Bud Lane  
Windsor, NC 27893

*Pro Se* Respondent

**Certified Mail Receipt Number: 70170530000073199361**

This the 15<sup>th</sup> day of October, 2018.

  
Mary Faulkner  
Paralegal  
N.C. Department of Insurance  
General Counsel's Office  
1201 Mail Service Center  
Raleigh, NC 27699-1201