

NORTH CAROLINA DEPARTMENT OF INSURANCE  
RALEIGH, NORTH CAROLINA

STATE OF NORTH CAROLINA	)	BEFORE THE
COUNTY OF WAKE	)	COMMISSIONER OF INSURANCE
	)	
	)	
IN THE MATTER OF:	)	ORDER AND
	)	FINAL AGENCY DECISION
THE LICENSURE OF	)	
RANDALL EDWARDS	)	
NPN# 0016552026	)	Docket Number: 1943
Respondent.	)	
	)	

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This matter was heard on October 29, 2020, November 17, 2020, and December 3, 2020, by the undersigned Hearing Officer, as designated by the Commissioner of Insurance pursuant to N.C. Gen. Stat. §58-2-55. The administrative hearing was held in the Albemarle Building, located at 325 North Salisbury Street, Raleigh, Wake County, North Carolina. Assistant Attorney General Heather H. Freeman represented the North Carolina Department of Insurance, Bail Bond Regulatory Division (hereinafter "Petitioner"). Respondent Randall Edwards (hereinafter, "Respondent") was present in person on October 29, 2020, failed to appear on November 17, 2020, appeared by video on December 3, 2020, and was represented by attorney Richard Forrester on each date.

At the hearing, Steve Bryant, a Complaint Analyst with the Bail Bond Regulatory Division ("BBRD") of the Department, was called to testify by the Petitioner. Johnnye' Dunn, a licensed surety bondsman at the time of the October 29, 2020 and November 17, 2020 hearing dates, was called to testify by the Petitioner. Respondent testified on his own behalf.

The Petitioner offered into evidence Petitioner's Exhibits 1-16; 19-20; and, 23-33, which were admitted into evidence. Respondent offered Exhibit A into evidence.

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

### **Findings of Fact**

1. The Notice of Administrative Hearing was properly served on Respondent pursuant to Rule 4 of the North Carolina Rules of Civil Procedure and N.C. Gen. Stat. §58-2-69(d). On July 17, 2019, Petitioner filed a Motion to Continue the hearing from its original date of July 23, 2019, which was granted. The hearing was thereafter continued to September 19, 2019.

2. On September 17, 2019, Respondent submitted a request by email to continue the hearing to a later date, and this request was granted on September 18, 2020 by a Second Order of Continuance. The hearing was continued to February 6, 2020.

3. On February 3, 2020, counsel for Petitioner and counsel for Respondent stipulated to the consolidation of this administrative hearing with docket number 1948, In the Matter of the Licensure of Johnnye' Dunn.

4. On February 5, 2020, counsel for Respondent and counsel for Johnnye' Dunn, docket number 1948, moved to continue the February 6, 2020 hearings. A Third Order of Continuance issued on February 6, 2020 continued the consolidated hearings to April 8, 2020. The hearings did not go forward on April 8, 2020, due to the COVID-19 pandemic and emergency stay-at-home orders in place at that time. On July 16, 2020, hearing officer Sherri Hubbard issued a Scheduling Order setting the consolidated hearings on August 27, 2020.

5. On August 24, 2020, Petitioner filed a Motion to Continue the consolidated hearings due to the unavailability of a Department witness. On August 25, 2020, the hearing officer issued a Fourth Order of Continuance and the consolidated hearings were thereafter rescheduled for September 30, 2020.

6. On September 28, 2020, counsel for Johnnye' Dunn moved for a continuance of the consolidated hearing, which was granted. The consolidated hearings were rescheduled for October 29, 2020.

7. The consolidated hearings began on October 29, 2020, and were held over to November 17, 2020.

8. On November 17, 2020, Respondent failed to appear due to a reported illness. The consolidated hearings continued to proceed with Respondent's counsel present. During the November 17, 2020 hearing, Johnnye' Dunn surrendered her surety bondsman license. The remaining hearing related to Respondent's license was held over to December 3, 2020.



9. On December 1, 2020, Respondent filed a Motion to Continue the hearing for the remainder of 2020 due to a recommendation on November 30, 2020 from Anita Rogers, PA-C of H.O.P.E. Medical Clinic for Respondent to “avoid stressful situations.” Respondent’s motion was denied by the Hearing Officer. The hearing in this matter resumed on December 3, 2020. Respondent appeared by WebEx video and was represented by counsel.

10. Steve Bryant testified on behalf of BBRD. Mr. Bryant has been a Senior Complaint Analyst with the Bail Bonds Regulatory Division for approximately four years since the creation of BBRD. Prior to this, Mr. Bryant was a Complaint Analyst within the North Carolina Department of Insurance, Agent Services Division. Mr. Bryant’s normal job duties include investigating complaints made related to bondsmen licensed by the Department.

11. Respondent was licensed as a surety bondsman by the Department on February 21, 2012. Prior to receiving his license, Respondent completed required training and education regarding the applicable statutes and administrative codes regulating licensed surety bondsmen in North Carolina.

12. On May 19, 2017, the Department received a complaint by email regarding bonds written on February 7, 2017 on behalf of Reginald Prince in Wake County file numbers 17 CR 200622 and 17 CR 202147. A \$10,000 bond was required in file number 17 CR 200622 and a \$2,000 bond was required in file number 17 CR 202147.

13. Keisha Burch, a Complaint Analyst in BBRD in 2017, was also assigned to the matter and worked alongside Mr. Bryant during the BBRD investigation into the complaint.

14. By letter addressed to Respondent dated January 26, 2017, and sent via certified mail, FCS terminated Respondent’s appointment as a surety. The Department and Global Surety Services, LLC were copied on this letter.

15. Mr. Bryant testified that Global Surety was the managing general agent of FCS in February 2017, and that managing general agents are not regulated by the Department.

16. Terminations of appointment by an insurance company, such as the termination of Respondent by FCS, are reported to the Department and to the Administrative Office of the Courts.

17. Upon review of the court files in Wake County file numbers 17 CR 200622 and 17 CR 202147, Mr. Bryant learned that another licensed surety bondsman, Johnnye' Dunn, wrote the bonds on behalf of Reginald Prince, using powers of attorney issued by FCS.

18. The affidavit portion of the "Appearance Bond for Pretrial Release" court record in file number 17 CR 200622, documents that Johnnye' Dunn reported she received a premium in the amount of \$700.00 on February 7, 2017, for the \$10,000 bond required in that case.

19. The affidavit portion of the "Appearance Bond for Pretrial Release" court record in file number 17 CR 202147, documents that Johnnye' Dunn reported she received a premium in the amount of \$200.00 on February 7, 2017, for the \$2,000 bond required in that case.

20. On June 18, 2017, the Department received a notarized statement from Respondent detailing his involvement with Reginald Prince, as well as documents documenting Reginald Prince's "client jail information," cosigner information, a copy of an indemnity agreement entered into between Respondent and Rachel Bonier, and copies of the receipts written by Respondent for premiums paid to him by various individuals related to the two bonds.

21. On February 7, 2017, Respondent met with Reginald Prince and negotiated and charged a 10% premium for the two bonds totaling \$12,000 written on FCS powers in Wake County file numbers, 17 CR 200622 and 17 CR 202147, and entered into an indemnity agreement with, and received a \$300 premium payment from, cosigner, Rachel Bonier.

22. The indemnity agreement entered into between Respondent and Rachel Bonier was not recorded as collateral on either of the "Appearance Bond for Pretrial Release" court records, in Wake County file numbers 17 CR 200622 and 17 CR 202147.

23. The Department learned that Respondent later received deferred premium payments from other individuals, specifically on February 8, 2017 and February 10, 2017, in the amount of \$250 and \$300 from an individual reported as "Ms. Tica," and on April 14, 2017 and April 29, 2017, from Reginald Prince in the amounts of \$200 and \$100. Respondent reported a total amount of \$1,150 in deferred premium payments paid to Respondent on Reginald Prince's behalf.



24. Mr. Bryant testified that where an agreement is made for deferred premium payments, a written memorandum of agreement between the principal and surety shall be kept on file containing certain required information as required by N.C. Gen. Stat. § 58-71-167.

25. Respondent failed to enter into a memorandum of agreement before negotiating, charging, and receiving deferred premium payments for the two bonds written on behalf of Reginald Prince in Wake County file numbers 17 CR 200622 and 17 CR 202147.

26. Mr. Bryant testified that, while it may be common practice among bondsmen, it is the Department's policy that a bondsman "dropping bonds" for another bondsman is not an acceptable practice and is not specifically authorized by Chapter 58.

27. Mr. Bryant further testified that due to Respondent's termination from FCS he was prohibited from writing any bonds using FCS powers of appointment as of January 26, 2017, regardless of whether Respondent received notice of his termination; and that Respondent was unauthorized to write bonds, negotiate or collect premiums, or negotiate and enter into an indemnity agreement related to the bonds written using FCS powers of appointment on behalf of Reginald Prince on February 7, 2017.

28. Respondent entered into Voluntary Settlement Agreements ("VSAs") in 2013 and in 2017 with the Department related to violations of Chapter 58 by Respondent while acting as a licensed surety bondsman.

29. On August 5, 2013, as part of a VSA, Respondent agreed to "obey all laws and regulations applicable to a licensed surety bondsman," agreed that the VSA "shall have the full force and effect of an Order of the Commissioner" and acknowledged he understood "that N.C. Gen. Stat. § 58-71-80(a)(7) provides that a bail bondsman's license may be revoked for violating an Order of the Commissioner."

30. On January 19, 2017, as part of a VSA, Respondent agreed to "obey all laws and regulations applicable to all licenses issued to him," agreed that the VSA "shall have the full force and effect of an Order of the Commissioner" and acknowledged he understood "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."

31. On behalf of the Department, Mr. Bryant requested that Respondent's surety bondsman's license be revoked for multiple violations of Chapter 58 of the North Carolina General Statutes, as well as the North Carolina Administrative Code.

32. In response to the notice of Complaint from the Department regarding the Reginal Prince bonds, on August 31, 2017, Johnnye' Dunn sent an email to the Department in which she stated that she was contacted by an individual named Derrick McFarlane from Global Surety on February 7, 2017. Mr. McFarlane asked her to "drop a bond" for Respondent because FCS previously terminated him from their company. Ms. Dunn further stated that Respondent took care of the paperwork and the premiums for the bonds while she filled out the "Appearance Bond for Pretrial Release" court records as instructed by Derrick McFarlane.

33. At the hearing, Ms. Dunn testified that she did not receive the amounts of premium that she reported on the affidavits in the "Appearance Bond for Pretrial Release" court records in file numbers 17 CR 200622 or 17 CR 202147, but did receive payment of \$100 from Derrick McFarlane for "dropping the bond."

34. At the hearing, Respondent confirmed he signed and sent the notarized statement and documents contained in Exhibit 23 to the Department on June 18, 2017 in response to the Complaint the Department received from Reginald Prince regarding bonds for Wake County file numbers 17 CR 200622 and 17 CR 202147.

35. Respondent further testified that he did not write the bonds for Reginald Prince for Wake County file numbers 17 CR 200622 and 17 CR 202147 on February 7, 2017, because Respondent ran out of FCS powers of appointment and that Derrick McFarlane of Global told him he would have another bondsman "drop bonds" for him.

36. Respondent testified that he merely followed instructions received by Global Surety, with whom he had a "non-liable" contract, but he did not receive the termination letter and was unaware that FCS terminated him from their company prior to February 7, 2017.

37. During the hearing on October 29, 2020, Respondent maintained that the Raleigh address used by FCS to mail the termination letter was not his address at the time of termination in 2017.

38. During Respondent's testimony on December 3, 2020, he presented evidence from USPS showing the certified mail from FCS with the Notice of Termination was never signed for and returned to sender; however, Respondent admitted that the Raleigh address where the FCS termination letter was addressed and mailed is the residential address in the license renewal application Respondent submitted to the Department in 2018, and the address where his children reside with their mother. Respondent further testified he did routinely receive mail at that address.



39. Respondent testified that he ultimately returned all of the premium money paid to him related to the two bonds written on behalf of Reginald Prince for Wake County file numbers 17 CR 200622 and 17 CR 202147, but acknowledged that he failed to execute a Memorandum of Agreement related to those premium payments and that he failed to seek or to receive approval by the Department for the indemnity agreement he entered into with Rachel Bonier.

40. Respondent also admitted to voluntarily entering into the 2013 and 2017 VSAs with the Department related to alleged violations of Chapter 58, including over-collateralizing and failure to return collateral in a timely manner, in which he agreed to follow all applicable statutes and regulations. Respondent testified that he did not know all applicable statutes or administrative codes applicable to the regulation of his surety bondsman license.

41. Based on Respondent's termination by FCS in January 2017, Respondent was not qualified to write bonds, negotiate or collect premiums, or to negotiate and enter into an indemnity agreement related to the bonds written on FCS powers of appointment on behalf of Reginald Prince on February 7, 2017, in Wake County file numbers 17 CR 200622 and 17 CR 202147.

### Conclusions of Law

1. This matter is properly before the Commissioner, and the Commissioner has jurisdiction over the parties and the subject matter pursuant to N. C. Gen. Stat. §§ 58-2-50, 58-2-55, 58-2-70, 58-71-80, 58-71-140, 58-71-167, 150B-38, 150B-40, 150B-41, and 150B-42, as well as 11 NCAC 13 .0512, 11 NCAC 13 .0515, 11 N.C.A.C. 10401 *et seq.* and other applicable statutes and regulations.

2. N.C. Gen. Stat. § 58-71-1 (11) defines "surety bondsman" as any person who is licensed by the Commissioner as a surety bondsman under this Article, is appointed by an insurer by power of attorney to execute or countersign bail bonds for the insurer in connection with judicial proceedings, and who receives or is promised consideration for doing so."

3. Pursuant to N.C. Gen. Stat. § 58-71-40 (a), "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. No license shall be issued under this Article except to an individual natural person."

4. N.C. Gen. Stat. § 58-71-80 (a)(4) prohibits “misappropriation, conversion or unlawful withholding of moneys belonging to insurers or others and received in the conduct of business under the license.”

5. N.C. Gen. Stat. § 58-71-80 (a)(5) prohibits “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.”

6. Pursuant to N.C. Gen. Stat. § 58-71-80 (a)(8), the Commissioner may take disciplinary action, “when 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; or that the licensee is no longer in good faith carrying on the bail bond business; or that the licensee is guilty of rebating, or offering to rebate, or offering to divide the premiums received for the bond.”

7. N.C. Gen. Stat. § 58-71-80 (a)(14), prohibits a bondsman from “knowingly aiding or abetting others to evade or violate the provisions of this Article.”

8. Pursuant to N.C. Gen. Stat. § 58-71-167(a), “[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, a written memorandum of agreement between the principal and surety shall be kept on file by the surety with a copy provided to the principal, upon request. The memorandum shall contain the following information:

- (1) [t]he amount of the premium payment deferred or not yet paid at the time the defendant is released from jail.
- (2) [t]he method and schedule of payment to be made by the defendant to the bondsman, which shall include the dates of payment and amount of to be paid on that date.
- (3) [t]hat the principal is, upon the principal’s request, entitled to a copy of the memorandum.”

9. In violation of N.C. Gen. Stat. §§ 58-71-40 (a); 58-71-80 (a)(4), 58-71-80 (a)(5), 58-71-80 (a)(8), and 58-71-80 (a)(14), Respondent negotiated and received a premium for bonds written on Financial Casualty & Surety powers of attorney, of which Respondent was not appointed and which bonds were written by another bondsman, Johnnye’ Dunn; therefore, Respondent was not qualified and lacked the authority to negotiate and receive the total of \$1150 in premium payments for the bonds written in Wake County file numbers, 17 CR 200622 and 17 CR 202147 as a result of the termination of his appointment with Financial Casualty & Surety effective January 26, 2017.



10. In violation of N.C. Gen. Stat. §§ 58-71-40 (a); 58-71-80 (a)(4), 58-71-80 (a)(5), 58-71-80 (a)(8), and 58-71-80 (a)(14), Respondent knowingly aided and abetted Johnnye' Dunn to violate the bail bond laws by negotiating and collecting a premium for Reginald Prince's bonds on Financial Casualty & Surety powers of attorney of which Respondent was not appointed.

11. In violation of N.C. Gen. Stat. §§ 58-71-40 (a); 58-71-80 (a)(4), 58-71-80 (a)(5), 58-71-80 (a)(8), 58-71-80 (a)(14), and N.C. Gen. Stat. § 58-71-167(a), Respondent failed to complete a Memorandum of Agreement for the deferred payments he received for premium related the bonds written in Wake County file numbers, 17 CR 200622 and 17 CR 202147.

12. Pursuant to 11 NCAC 13 .0512 (h), "[a]ll indemnity agreements or other security agreements shall be considered as collateral security and shall be listed and described on the form provided by the Administrative Office of the Courts (Form AOC-CR-201 or its successor) entitled 'Appearance Bond for Pretrial Release.'"

13. In violation of 11 NCAC 13 .0512 (h), Respondent negotiated and entered into an indemnity agreement on behalf of Reginald Prince that was not reported on the back of the "Appearance Bond for Pretrial Release" court documents in Wake County file numbers, 17 CR 200622 and 17 CR 202147.

14. Pursuant to 11 NCAC 13.0512 (j), "[a]ll agreements and contracts with defendants or anyone on behalf of the defendant, shall have a form number and the license number of the bail bondsman printed thereon and shall be submitted to the Department for approval according to the standards in these Rules. No such agreements or contracts shall be used by the licensee until written approval has been given by the Department."

15. In violation of 11 NCAC 13.0512 (j), Respondent negotiated and entered into an indemnity agreement on behalf of Reginald Prince that was not reported on the back of the "Appearance Bond for Pretrial Release" court documents in Wake County file numbers, 17 CR 200622 and 17 CR 202147, an agreement which Respondent failed to submit to and receive written approval by the Department.

16. Pursuant to 11 NCAC 13 .0515, "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." Respondent failed to comply with this administrative code.

17. Respondent failed to comply with an Order of the Commissioner, specifically the 2013 voluntary settlement agreement entered into between Respondent and the Department.

18. Respondent failed to comply with an Order of the Commissioner, specifically the 2017 voluntary settlement agreement entered into between Respondent and the Department.

19. Pursuant to N.C. Gen. Stat. § 58-71-80(a)(1), the Commissioner may take disciplinary action, "for any cause sufficient to deny, suspend, or revoke the license under any other provision of this Article."

20. Pursuant to N.C. Gen. Stat. § 58-71-80(a)(7), Commissioner may take disciplinary action against a license holder for failing to comply with or violating the provisions of Article 71 of Chapter 58 or of any order, subpoena, rule or regulation of the Commissioner or person with similar regulatory authority in another jurisdiction.


21. Pursuant to N.C. Gen. Stat. § 58-71-80 (a)(14b), "violation of (i) any law governing bail bonding or insurance in this State or any other jurisdiction or (ii) any rule of the Financial Industry Regulatory Authority (FINRA)" may result in disciplinary action.

Based on the foregoing Finding of Facts and Conclusions of Law, the Hearing Officer enters the following:

**Order**

It is HEREBY ORDERED that Respondent's surety bail bondsman license be REVOKED.

This the 22<sup>nd</sup> day of December, 2020.



Meghan Cook  
Hearing Officer  
N.C. Department of Insurance



## 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 11. NCAC 01.0413 and N.C. Gen. Stat. § 1 A-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.

## CERTIFICATE OF SERVICE


I HEREBY CERTIFY that I have this day served the foregoing **ORDER AND FINAL AGENCY DECISION** by mailing a copy of the same via certified U.S. mail, return receipt requested; via first class U.S. mail to the licensee at the address provided to the Commissioner pursuant to N.C. Gen. Stat. § 58-2-69(b); and via State Courier to Attorney for Petitioner, addressed as follows:

Richard Forrester  
Forrester Law Firm  
612 West Friendly Ave.  
Greensboro, NC 27401  
(Attorney for Respondent Edwards)

Certified Mail Tracking Number: 70200640000031857036

Heather H. Freeman  
Assistant Attorney General  
N.C. Department of Justice  
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Raleigh, NC 27699-9001  
(Attorney for Petitioner)

This the 22<sup>nd</sup> day of December, 2020.



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