

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
KIMBERLY DAWN GRIFFIN
(NPN # 18722569)

Respondent.

ORDER AND
FINAL AGENCY DECISION

Docket Number: 2188

This matter was heard on June 19, 2024, 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. Special Deputy Attorney General M. Denise Stanford represented the North Carolina Department of Insurance ("Department"), Bail Bond Regulatory Division ("Petitioner" or "BBRD"). Respondent Kimberly Dawn Griffin ("Respondent") appeared and represented herself at the hearing.

The undersigned hearing officer proceeded to accept and consider testimony and evidence offered by BBRD in support of its Petition at the hearing.

Clifford "Mickey" Denny, Complaint Analyst with BBRD, testified for the Petitioner. Respondent testified on her own behalf. Respondent did not introduce any exhibits.

Petitioner introduced the following exhibits into evidence at hearing:

Exhibit 1 – Notice of Administrative Hearing and Petition for
Administrative Hearing

Exhibit 2 – Affidavit of Service

Exhibit 3 – Order Continuing Hearing to June 19, 2024

Exhibit 4 – License Summary

Exhibit 5 – Correspondence including:

- 8-10-23 Email from BBRD to Licensee
- 8-10-23 Email from Licensee to BBRD
- 8-18-23 Email from BBRD to Licensee
- 8-24-23 Email from Licensee to BBRD
- 10-9-23 Email from BBRD to Licensee attaching Informal Conference Notice

Exhibit 6 – Affidavit of Officer Caleb Hicks attaching Incident Report from the Avery County Sheriff's Office

Exhibit 7 – Certified Court Records from Avery County District Court

BASED UPON the careful consideration of the allegations set forth in the Notice of Administrative Hearing ("Notice") and attached Petition for Administrative Hearing ("Petition") in this matter, as well as documentary and testimonial evidence introduced at the hearing, 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 via first class mail. *See* Pet'r Exs. 1 and 2.

2. The Department is a state agency, responsible for the enforcement of insurance laws and regulating and licensing bail bondsmen in accordance with Chapter 58 of the North Carolina General Statutes.

3. The Notice and attached Petition, the Affidavit of Service, and the Continuance and Scheduling Order were admitted into evidence as administrative exhibits. *See* Pet'r Exs. 1, 2 and 3.

4. Respondent is a resident of North Carolina. *See* Pet'r Ex. 4.

5. Respondent holds a surety bail bondsman license, National Producer Number 18722569, first active on or about March 6, 2018. *See* Pet'r Ex. 4.

6. On June 24, 2023, Corporal Caleb Hicks responded to the Avery-Mitchell Correctional Facility located at 600 Amity Park Road, Spruce Pine NC in Avery County regarding a report of someone bringing narcotics into the prison. Upon arrival at the facility, he spoke with Lt. Derrick Fox and the Respondent. Corporal Hicks took possession of a "baggie" of methamphetamine and suboxone strips. Upon the completion of Corporal Hicks' investigation, the Respondent was transported to the Avery County Sheriff's Office to be seen before the magistrate. *See* Pet'r Ex. 6.

7. On June 24, 2023, Respondent was charged with several felonies, including two counts of Possession of a Controlled Substance on the Premises of a Prison/Jail in violation of N.C. Gen. Stat. § 90-95(e)(9); one count of Possession with Intent to Manufacture, Sell or Deliver Methamphetamine, in violation of N.C. Gen. Stat. § 90-95(a)(1); and one count of Possession with Intent to Manufacture, Sell or Deliver a Schedule III Controlled Substance, in violation of N.C. Gen. Stat. § 90-95(a)(1). *See* Pet'r Ex. 7.

8. Pursuant to a plea arrangement, on July 27, 2023, Respondent plead guilty to one count of Possession with Intent to Manufacture, Sell or Deliver methamphetamine and the remaining charges were dismissed. The Court ordered that further proceedings be deferred and placed Respondent on supervised probation for 18 months with certain conditions including warrantless searches and seizures, obtaining a substance abuse assessment and completing all recommended treatment, abstaining from consuming any alcohol or taking any medications not prescribed, and a prohibition from going to any facility where Joel Woods was being imprisoned. Respondent is to return to the Court in January 2025 for a hearing to determine the fulfillment of the terms and conditions of probation. *See* Pet'r Ex. 7.

9. Clifford "Mickey" Denny ("Mr. Denny") is a Complaint Analyst with BBRD. His job duties include investigating complaints made against bail bondsmen.

10. Mr. Denny was assigned as a Complaint Analyst to review allegations the Respondent had failed to report a felony conviction to the Department within 10 days of conviction, a violation of N.C. Gen. Stat. § 58-2-69(c).

11. Mr. Denny first contacted Respondent on August 10, 2023 and requested a detailed statement as to the circumstances regarding the felony charges against her. *See* Pet'r Ex. 5A.

12. On August 10, 2023, Respondent responded to Mr. Denny's August 10, 2023 email, stating, "I was offered a N.C. Gen. Stat. 90-96 plea agreement and as this was not a conviction I did not think I had to report it." *See* Pet'r Ex. 5B.

13. Respondent's guilty plea on July 27, 2023, was a felony conviction. Respondent did not report this felony conviction to the Department within ten days of conviction.

14. In exchange for money, Respondent brought illegal drugs into the Avery-Mitchell Correctional Facility on June 24, 2023, with the intent to deliver the drugs to an inmate.

15. The actions of Respondent on June 24, 2023 were not the actions of a bondsman who was carrying on the bail bond business in good faith.

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 Chapter 58 of the North Carolina General Statutes.

2. The Notice of Administrative Hearing was properly served on Petitioner pursuant to N.C. Gen. Stat. §§ 58-2-69(d) and 58-2-69(e). *See* Pet'r Exs. 1 and 2.

3. Pursuant to N.C. Gen. Stat. § 58-2-69(c), if a licensee is convicted in any court of competent jurisdiction for any crime or offense other than a motor vehicle infraction, the licensee shall notify the Commissioner in writing of the conviction within 10 days after the date of the conviction. As used in this subsection, and as interpreted in Mace v. N.C. Dep't of Ins., 270 N.C. App. 37, 840 S.E.2d 839, 2020 N.C. App. LEXIS 136, 2020 WL 774152 "conviction" includes an adjudication of guilt, a plea of guilty, or a plea of nolo contendere. The Respondent's guilty plea constitutes a conviction and subjects her to regulatory action under N.C. Gen. Stat. § 58-2-69(c), including revocation of her license.

4. N.C. Gen. Stat. § 58-71-80(a)(7) provides that the Commissioner may deny, place on probation, suspend, revoke, or refuse to renew any license issued under this Article for failure to comply with or violation of the provisions of this Article or of any order, subpoena, rule or regulation of the Commissioner or person with similar regulatory authority in another jurisdiction.

5. N.C. Gen. Stat. § 58-71-80(a)(8) provides that the Commissioner may deny, place on probation, suspend, revoke, or refuse to renew any license issued under this Article when in the judgment of the Commissioner, a licensee is no longer in good faith carrying on the bail bond business. The actions of the Respondent in bringing illegal drugs into a correctional facility for sale to an inmate constitute a lack of good faith in carrying on the bail bond business pursuant to N.C. Gen. Stat. § 58-71-80(a)(8).

6. Pursuant to N.C. Gen. Stat. § 58-71-80(b), the Commissioner shall revoke a bail bondsman license if the licensee is or has ever been convicted of a felony. A guilty plea entered as a part of a conditional discharge which has not yet been discharged and dismissed by the trial court constitutes a conviction for purposes of N.C. Gen. Stat. §§ 58-2-69(c) and 58-71-80(b). The Respondent's guilty plea on July 27, 2023, constituted a conviction of a felony subjecting her license to revocation.

7. In violation of N.C. Gen. Stat. § 58-2-69(c), Respondent failed to notify the Commissioner of her July 27, 2023 guilty plea, which constituted a felony conviction, to felony possession of Methamphetamine.

8. Respondent's license is subject to disciplinary action under N.C. Gen. Stat. § 58-2-69(c) and N.C. Gen. Stat. § 58-71-80(a)(7) for failing to timely report to the Commissioner her guilty plea to Felony Possession of Methamphetamine.

9. Respondent's actions in carrying methamphetamine and four suboxone strips onto the premises of Avery Mitchell Correctional Institute with intent to deliver the methamphetamine and suboxone strips to an inmate there in exchange for money demonstrates that Respondent is no longer carrying on the bail bond business in good faith and subjects her license to disciplinary action pursuant to N.C. Gen. Stat. § 58-71-80(a)(8).

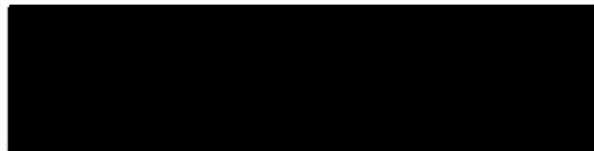
10. Respondent's felony conviction subjects her license to disciplinary action pursuant to N.C. Gen. Stat. § 58-71-80(b).

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer enters the following:

ORDER

It is ordered that Respondent's licenses issued by the North Carolina Department of Insurance are hereby REVOKED effective as of the date of the signing of this order.

This the 23 day of July, 2024.



Amy Funderburk
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: Amy Funderburk, General Counsel, 1201 Mail Service Center, Raleigh, NC 27699-1201.

CERTIFICATE OF SERVICE

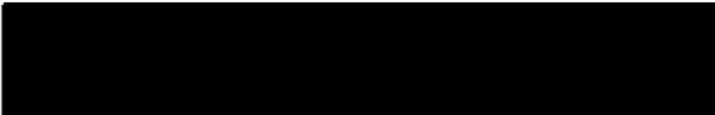
I HEREBY CERTIFY that I have this day served the foregoing **ORDER AND FINAL AGENCY DECISION** by mailing a copy of the same via certified U.S. Mail, return receipt requested; via first class U.S. mail to the licensee, at the address provided to the Commissioner pursuant to N.C. Gen. Stat. § 58-2-69(b);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

Kimberly Dawn Griffin
2684 Duggins Road
Madison, NC 27025

Certified Mail Tracking Number: **9589 0710 5270 0742 5936 83**

M. Denise Stanford
Special Deputy Attorney General
N.C. Department of Justice
Insurance Section
9001 Mail Service Center
Raleigh, NC 27699-9001
(Attorney for Petitioner)

This the 23rd day of July, 2024.


Kimberly W. Pearce, NCCP
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