

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)	
APRIL HARRIS)	
)	Docket Number: 2098
Respondent.)	
)	

This matter was heard on Wednesday, January 25, 2023, 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 Rebecca E. Lem represented the North Carolina Department of Insurance, Bail Bond Regulatory Division ("Petitioner"). Respondent April Harris ("Respondent") did not appear.

At the hearing, April Taylor ("Ms. Taylor"), Complaint Analyst with the Bail Bond Regulatory Division ("BBRD") of the Department, was called to testify by the Petitioner.

The Petitioner offered into evidence Petitioner's Exhibits 1 – 6 and 8, which were admitted 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 and Scheduling Order were 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). This matter was originally scheduled for November 9, 2022. Respondent submitted a motion for continuance, which was granted.

2. The undersigned hearing officer directed the parties to coordinate a mutually acceptable new hearing date, with the hearing to take place no later than January 31, 2023. Thereafter, Courtney Ethridge ("Ms. Ethridge"), paralegal for the Insurance Section of the North Carolina Attorney General's Office, made several attempts to coordinate a mutually acceptable hearing date with Respondent. Respondent did not respond to Ms. Ethridge's attempts to contact her. Subsequently, a Scheduling Order notifying Respondent of the new hearing date of January 25, 2023, was served upon Respondent by Federal Express, first-class mail, and by e-mail to Respondent.

3. Respondent applied to the Department for a surety bondsman license on or about March 7, 2022, with an electronically signed Surety Bail Bondsman License Application ("license application"), after completing 12 hours of NC Bail Academy pre-licensing education.

4. On the license application, Respondent answered "No" to license application question 3a, which asked, "Have you ever been convicted of a crime (Felony, Misdemeanor and Traffic convictions), whether or not adjudication was withheld (including any Prayer for Judgments "PJC")". The question asks for relevant documentation to be attached if the answer is yes. (Ex. 3)

5. On the license application, Respondent answered "No" to license application question 7, which asked, "Do you individually and/or jointly have any civil judgments, or decrees or liens outstanding against you for any reason, including failing to pay State or Federal income tax, as of the date of this application?" The question asks for relevant documentation to be attached if the answer is yes. (Ex. 3)

6. The license application contains a section entitled "Applicant's Certification and Attestation" which states in part, "I hereby certify, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information and omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties." Respondent completed this attestation as part of electronic submission of her license application. (Ex. 3)

7. A routine screening conducted as part of the license application process revealed that Respondent had several criminal convictions and civil judgments outstanding against her.

8. April Taylor, Complaint Analyst with the Bail Bond Regulatory Division, was assigned to handle the matter of Respondent's license application. Ms. Taylor has been a Complaint Analyst with BBRD since December 2021, and previously she was a Regional Director with NCDOT's Administration Division from

November 2017 to December 2021. Ms. Taylor testified that she was familiar with this matter and has recently reviewed BBRD's file on this matter.

9. On April 27, 2022, at 12:36 pm, Ms. Taylor sent an email to Respondent noting several deficiencies on her license application, including criminal convictions and outstanding civil judgments that had been discovered as part of the routine background check done as part of the license application process. (Ex. 4a)

- a. In this email, Ms. Taylor listed each of the criminal convictions, including case numbers, counties, and dates that had been noted from the routine criminal background check, and asked Respondent to provide an explanation.
- b. In this same email, Ms. Taylor also listed each of the civil judgments, including case numbers, counties, dates, amounts, and Plaintiff names that had been noted from the routine civil judgment background check, and asked Respondent to provide an explanation.

10. On April 27, 2022, at 2:19 pm, Respondent sent an email reply to Ms. Taylor. (Ex. 4b)

- a. In this email, Respondent provided an explanation for each of the criminal convictions listed in Ms. Taylor's email. Respondent's email acknowledges that she knew about all of these criminal convictions except for a January 14, 2008 criminal conviction for "No Operators License" in Halifax County (08 CR 000186), which she stated she did not remember.
- b. Regarding the outstanding civil judgments referenced in Ms. Taylor's email, Respondent acknowledged being aware of two of these outstanding civil judgments. These were in Halifax County case numbers 08 CR 053575 and 09 CRS 054966 and were related to probation fees. Respondent denied awareness of the other civil judgments.

11. After reviewing Respondent's explanation of the criminal convictions and civil judgments, BBRD denied Respondent's license application based on the inaccurate answers to the license application screening questions regarding her criminal convictions and outstanding civil judgments. Respondent timely requested a denial review meeting. The denial review meeting took place by video conference on May 26, 2022.

12. Thereafter, BBRD issued letters on May 27, 2022 and June 6, 2022, which notified Respondent of the reason for the license denial, and informing her of her right to request a hearing in this matter. Respondent timely requested a hearing.

13. Certified court records admitted into evidence at the hearing confirmed that Respondent has the following criminal convictions:¹

- a. Halifax County – 99 CR 006443. On August 4, 1999, Respondent was convicted of the crime of Misdemeanor Larceny in violation of N.C. Gen. Stat. § 14-72(a). (Ex. 5a p 19; Petition ¶ 6b).
- b. Halifax County – 99 CR 006444. On August 4, 1999, Respondent was convicted of the crime of Common Law Forgery. (Ex. 5a p 17; Petition ¶ 6a).
- c. Halifax County – 01 CR 053204. On October 26, 2001, Respondent received a Prayer for Judgment Continued for the motor vehicle violation of No Operators License in violation of N.C. Gen. Stat. § 20-7(a). (Ex. 5a p 34; Petition ¶ 6d).
- d. Halifax County – 00 CR 005095. On February 4, 2003, Respondent was convicted of the motor vehicle violation of No Operators License in violation of N.C. Gen. Stat. § 20-7(a). (Ex. 5a p 16; Petition ¶ 6c).
- e. Hertford County – 07 CR 000814. On June 8, 2007, Respondent was convicted of the crime of Misdemeanor Child Abuse in violation of 14-318.2(a). (Ex. 5c p 3; Petition ¶ 6e).
- f. Halifax County – 08 CR 052868. On October 3, 2008, Respondent was convicted of the crime of Misdemeanor

¹ On the Petition for Administrative Hearing attached to the Notice of Hearing (Ex. 1), the dates noted as conviction dates for Respondent's criminal convictions are actually the dates the offenses occurred. However, because the proper county, case numbers, and offenses are listed on the Petition, and because Respondent previously acknowledged awareness of all but one of these offenses in her email of April 27, 2022 (Ex. 4b), this error is harmless. Respondent received adequate notice in the Petition of her failure to accurately answer question 3a on her license application and why that answer was inaccurate.

Simple Worthless Check in violation of N.C. Gen. Stat. § 14-107(d)(1). (Ex. 5a p 33; Petition ¶ 6h).

- g. Halifax County – 09 CRS 054966. On May 3, 2010, Respondent was convicted of the crime of Misdemeanor Larceny in violation of N.C. Gen. Stat. § 14-72(a). (Ex. 5a pp 12; Petition ¶ 6j).
- h. Halifax County – 09 CRS 056571. On July 13, 2011, Respondent was convicted of the crime of Misdemeanor Larceny in violation of N.C. Gen. Stat. § 14-72(a). (Ex. 5a p 24; Petition ¶ 6k).
- i. Halifax County – 09 CRS 056573. On July 13, 2011, Respondent was convicted of the crime of Misdemeanor Larceny in violation of N.C. Gen. Stat. § 14-72(a). (Ex. 5a p 31; Petition ¶ 6i).

14. The Petition for Administrative Hearing also listed three (3) separate Misdemeanor Probation Violations from Halifax County (99 CR 006443, 08 CR 000945 and 09 CRS 054966). However, “a proceeding to revoke probation [pursuant to N.C. Gen. Stat. § 15A-1345] is not a criminal prosecution.” *State v. Duncan*, 270 N.C. 241, 245, 154 S.E.2d 53, 57 (1967). Therefore, Respondent was not required to report these probation violations in response to license application question 3a.

15. Certified court records and a “Civil Case Processing System Judgments Index” admitted into evidence at the hearing confirmed that Respondent has the following outstanding civil judgments:

- a. Halifax County – 08 CR 053575. On December 1, 2008, a judgment was granted against Respondent in the amount of \$500 in favor of the State of North Carolina. As of the date of this hearing, the judgment was still outstanding. (Ex. 6; Petition ¶ 5a).
- b. Halifax County – 09 CRS 054966 (J001). On August 5, 2011, a judgment was granted against Respondent in the amount of \$600 in favor of the State of North Carolina. As of the date of this hearing, the judgment was still outstanding. (Ex. 6; Petition ¶ 5b).
- c. Granville County – 12 CVM 179. On April 17, 2012, a judgment was granted against Respondent in the amount of \$285.90 in favor of the State Employees Credit Union.

As of the date of this hearing, the judgment was still outstanding. (Ex. 5b; Petition ¶ 5c).

- d. Halifax County – 15 CVM 959. On October 26, 2015, a judgment was granted against Respondent in the amount of \$735.48 in favor of Plaintiff Edmond Dixon. As of the date of this hearing, the judgment was still outstanding. (Ex. 5a pp 2-6; Petition ¶ 5b).
- e. Halifax County – 18 CVM 201. On February 27, 2018, a judgment was granted against Respondent in the amount of \$481.67 in favor of Plaintiff James Jones. As of the date of this hearing, the judgment was still outstanding. (Ex. 5a pp 7-10; Petition ¶ 5f)

16. In an email sent to Ms. Taylor on April 29, 2022, Respondent stated, in reference to her answer to the license application question regarding her criminal convictions, “I only did what I was told to do because when I asked Mr. Perry’s assistant on how to fill everything out I told her when I got my criminal background check from Halifax and Hertford county nothing was on it so she told me to put no.” She further stated that “I would’ve put yes and I didn’t exactly know what I was charged with due to how long ago it has been and one of the charges I don’t even remember going to court for. And for the judgements [sic] I had no knowledge of these either.”

17. Ms. Taylor testified that Mr. Perry is the Surety Bondsman who Respondent had selected to supervise her during her first year of licensure.

18. Respondent did not appear at the hearing, and thus did not testify to provide an explanation regarding her request for criminal records as referred to in her email to Ms. Taylor on April 29, 2022, and Respondent did not provide any evidence to show that she did in fact request said criminal records as she claimed in her April 29, 2022 email to Ms. Taylor.

19. In Respondent’s email to Ms. Taylor on April 27, 2022, Respondent explained two of her civil judgments that indicate her awareness of these judgments:

- a. Halifax County – 08 CR 053575. Respondent wrote, “This is from fees for probation in which 2700 dollars were taken from me last year for this”.

- b. Halifax County – 09 CRS 054966 (J001). Respondent wrote, “[T]his [sic] is from fees for probation in which 2700 dollars were taken from me last year for this”.

20. Respondent did not appear at the hearing, and at no time presented any documentation or evidence showing that she had in fact satisfied the outstanding civil judgments in Halifax County referenced above (08 CR 053575 and 09 CRS 054966). Records obtained by Ms. Taylor in the regular course of business indicated that, as of October 26, 2022, Respondent still had outstanding balances on these judgments. (Ex. 6)

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. §§ 58-71-80, 150B-38 and 150-40, as well as 11 N.C.A.C. 10401 *et seq.* and other applicable statutes and regulations.

2. An Applicant for a Surety Bondsman license is responsible for accurately answering questions on the license application. The license application contains a section entitled “Applicant’s Certification and Attestation” which states in part, “I hereby certify, under penalty of perjury, all of the information submitted in the application and attachments is true and complete. I am aware that submitting false information and omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.” (Ex. 3)

3. Pursuant to N.C. Gen. Stat. § 58-71-80(a)(3), a license application may be denied for a material misstatement, misrepresentation, or fraud in obtaining the license.

4. Respondent’s failure to answer “yes” to license application screening question 3a when she had numerous criminal convictions as described herein is a material misstatement and misrepresentation that is cause to deny her license application pursuant to N.C. Gen. Stat. § 58-71-80(a)(3).

- a. Respondent acknowledged in her email of April 27, 2022 to Ms. Taylor that she was aware of all but one criminal conviction.
- b. Although the criminal convictions noted above were remote in time (the most recent criminal conviction was in 2011) and may not have been cause for a license denial if such convictions had been reported, that is not the basis for the

license denial. Rather, the license denial is based upon the fact that Respondent failed to report these convictions at all, which constitutes a material misstatement or misrepresentation.

- c. Although Respondent claimed in her April 29, 2022 email to Ms. Taylor that she was relying on the advice of the “assistant” of a licensed surety bondsman in answering this screening question, Respondent, as applicant, is responsible for accurately answering the screening questions on the license application, and she was not entitled to rely on the advice of another that she did not need to disclose these convictions. It was not reasonable for her to rely on the advice of the assistant of a surety bondsman in answering this question.
- d. Respondent did not appear at the hearing to provide any further explanation regarding why she felt she did not need to disclose these convictions.

5. Respondent’s failure to answer “yes” to license application screening question 7 when she had several outstanding civil judgments as described herein is a material misstatement and misrepresentation that is cause to deny her license application pursuant to N.C. Gen. Stat. § 58-71-80(a)(3).

- a. Although the civil judgments noted above would not have constituted just cause for a license denial if such civil judgments had been reported, that is not the basis for the license denial. Rather, the license denial is based upon the fact that Respondent failed to report these civil judgments at all, which constitutes a material misstatement or misrepresentation.
- b. Respondent did not appear at the hearing to provide any explanation regarding why she felt she did not need to disclose these outstanding civil judgments, or to provide evidence that she had in fact satisfied these civil judgments.

6. Surety bondsmen hold positions of trust. Surety bondsmen deal with vulnerable people, including both the individuals they bail out and those individuals’ families who often make payments on the bonds or provide collateral. It is therefore imperative that persons who are licensed as surety bondsman demonstrate truthfulness, responsibility, and attention to detail in relation to their actions in the

industry, including accurately completing their license application.

7. Respondent's failure to accurately answer question 3a and question 7 on her license application, when she clearly was aware of nearly all of her criminal convictions and at least two of her outstanding civil judgments, is cause to deny her license pursuant to N.C. Gen. Stat. § 58-71-80(a)(3).


8. Further, Respondent's failure to appear at the hearing regarding her license denial, particularly after she had requested and was granted a continuance in this matter, demonstrates Respondent's lack of continued interest in obtaining her Surety Bondsman license.

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

Order

It is ordered that the Bail Bond Regulatory Division's denial of Respondent's application for a Surety Bondsman License be UPHELD, and that no license shall be issued to her.

This the 15th day of February, 2023.


A/ John Hoomani
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 Respondent 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:

April Harris
1312 Proctor St.
Rocky Mount, NC 27801
(Respondent)

Certified Mail Tracking Number: 70200640000031858170

Rebecca E. Lem
Assistant Attorney General
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(Attorney for Petitioner)

This the 1st day of February, 2023.



Mary Faulkner
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