

**NORTH CAROLINA DEPARTMENT OF INSURANCE  
RALEIGH, NORTH CAROLINA**

**STATE OF NORTH CAROLINA  
COUNTY OF WAKE**

**BEFORE THE COMMISSIONER  
OF INSURANCE  
Docket Number: D-1395**

**IN THE MATTER OF THE LICENSURE  
OF DARRYL G. McCARROLL**

**ORDER AND FINAL AGENCY  
DECISION**

THIS CAUSE was heard on Wednesday, February 27, 2008, by the undersigned hearing officer, designated by the Commissioner of Insurance pursuant to N.C. Gen. Stat. § 58-2-55 pursuant to a notice of hearing that was duly issued and served.

The North Carolina Department of Insurance (hereinafter "Department") was present, represented by the Agent Services Division. The Department was represented by Assistant Attorney General Robert D. Croom.

Respondent Darryl G. McCarroll was represented by Kent Lively of the Guilford County Bar. The Respondent did not attend the hearing.

At the hearing, Gerald Mitchell, a Complaint Analyst with the Department was called to testify.

The Department offered into evidence Exhibits 1, 2, 3, 4 and 5, and said documents were admitted into evidence.

The Respondent did not present any 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 Amended Notice of Administrative Hearing was properly served on Respondent on December 11, 2007.
2. Respondent has been licensed by the Department as a surety bail bondsman since September 1, 1993 and as a professional bail bondsman since March 3, 1998.

3. Respondent failed to timely file written reports regarding all bail bonds written by the respondent as a professional bail bondsman on which he was liable for the months of October, 2005, as well as July, October, November and December, 2006, as well as January, 2007.
4. Respondent failed to timely file written reports regarding all bail bonds written by the respondent as a surety bail bondsman on which he was liable for the months of October, 2005, as well as March, October, November and December, 2006, as well as January, 2007.
5. There is substantial evidence that supports the foregoing findings.

Based on the forgoing Findings of Fact, the Hearing Officer makes the following:

#### **Conclusions of Law**

1. This matter is properly before the Commissioner. The Commissioner has jurisdiction over the parties and the subject matter pursuant to North Carolina General Statutes §58-71-80, 150B-38, 150B-40, 11 N.C.A.C. 1.0401 et seq. and other applicable statutes and regulations.
2. Respondent was properly served with the Notice of Administrative Hearing.
3. Respondent's failure to timely file written reports regarding all bail bonds written by the respondent as a professional bail bondsman on which he was liable for the months of October, 2005, as well as July, October, November and December, 2006, as well as January, 2007, are each violations of N.C. Gen. Stat. § 58-71-165.
4. Respondent's failure to timely file written reports regarding all bail bonds written by the respondent as a surety bail bondsman on which he was liable for the months of October, 2005, as well as March, October, November and December, 2006, as well as January, 2007, are each violations of N.C. Gen. Stat. § 58-71-165.
5. Respondent's failure to file monthly reports for the above-mentioned months demonstrates incompetency on the part of the Respondent in the conduct of the licensee's affairs under the license.
6. Pursuant to N.C. Gen. Stat. § 58-71-80(a)(7), the Respondent's license may be revoked for failing to comply with the provisions of Article 71 of Chapter 58 of the North Carolina General Statutes.
7. Pursuant to N.C. Gen. Stat. § 58-71-80(a)(8), the Respondent's license may be revoked if the licensee has in the conduct of his affairs under the license demonstrated incompetence.

8. The evidence presented at the hearing, in the form of testimony and the exhibits introduced, is sufficient to support the imposition of monetary penalties. The Hearing Officer concludes that civil monetary penalties should be imposed for 12 violations of N.C. Gen. Stat. § 58-71-165. Having considered the penalty factors set out in N.C. Gen. Stat. § 58-2-70(d), the Hearing Officer concludes that a civil monetary penalty in the amount of \$325 per violation for total civil monetary penalties of \$3,900 should be imposed on the Respondent.


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

### Order

It is therefore ordered that:

1. Respondent shall pay a civil monetary penalty in the amount of \$325 per violation for total civil monetary penalties of \$3,900 to the North Carolina Department of Insurance pursuant to N.C. Gen. Stat. § 58-2-70 by reason of his violations of N.C. Gen. Stat. § 58-71-165. 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. The above-referenced civil monetary penalty will be paid by check made payable to the "North Carolina Department of Insurance." The check shall be delivered to the Department within fifteen (15) days of the entry of this Order.
3. Respondent shall comply with all provisions of Chapter 58 of the North Carolina that are applicable to him.
4. This administrative action is a public record and is not confidential. The Department's licensure records shall reflect that Regulatory Action has been taken against the licensee following the entry of this Order. Either Respondent or the Department is free to disclose this Order to third parties.

This the 26<sup>th</sup> day of March, 2008.

  
Stewart Johnson, Hearing Officer  
N.C. Department of Insurance

APPEAL RIGHTS: This Order may be appealed to Superior Court within 30 days of receipt, as set forth in the General Statutes of North Carolina.