



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:

Jennifer M. Thomas,

Applicant.

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Case No. 14-0226258C

ORDER REFUSING TO ISSUE BAIL BOND AGENT LICENSE

On March 12, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue Jennifer M. Thomas’s bail bond agent license. After reviewing the Petition, the Investigative Report, and the entirety of the file, the Director issues the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. Jennifer M. Thomas (“Thomas”) is an individual residing in Missouri at 608 W. 4th, Carrollton, Missouri, 64633.

2. On or about December 20, 2013, the Department received a Uniform Application for Bail Bond or Surety Recovery License submitted by Thomas (“Application”).

3. The “Applicant Signature,” Part V of the Application, states:

I hereby certify that, 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 or 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.

4. Thomas signed the Application in the “Applicant Signature” section.

5. On the Application, in Part III - “Background Information,” Question B asks:

Have you ever been adjudicated, convicted, pled or found guilty of any misdemeanor or felony or currently have pending misdemeanor or felony charges filed against you? Applicants are required to report all criminal cases whether or not a sentence has been imposed, a suspended imposition of sentence has been entered or the applicant has pled nolo contendere (no contest).

6. Thomas answered "Yes" to Background Question A and submitted, along with other documents, certified copies of court records in *State v. Jennifer M. Thomas*, Saline Co. Cir. Ct., No. 07J5-CR00067-01, and a letter of explanation that stated, verbatim:

While I was at school (nursing school) my roommate and her boyfriend sold some kind of controlled substance to a confidential informant at my house. When police came to arrest them I was the only one home and didn't know anything about the drugs so I let them in to look and they found his drugs in the house. Since I was the only one home and the house was in my name I was charged with possession. They were not my drugs and I had nothing to do with them. However my attorney advised me that if I would plead guilty he could get me a suspended imposition of sentence and after a period of time the conviction would go away, otherwise I was taking a chance of being convicted and going to prison for something I had not done. So I did as my attorney advised me to do.

7. Attorney Danieal H. Miller submitted a January 20, 2014 letter to the Consumer Affairs Division in support of Thomas's Application. Miller explained that he did not represent Thomas in the felony possession case, but that Thomas "completed her period of SIS probation and it would appear, at least to me, to be improper for you to attempt to punish her still yet again."

8. On January 22, 2008, Thomas pled guilty to two (2) counts of the Class C Felony Possession of Controlled Substance, in violation of § 195.202. The court suspended the imposition of sentence, placed Thomas on five (5) years' supervised probation, and ordered her to successfully complete the Missouri Post Conviction Program pursuant to § 217.785 (120 shock incarceration). *State v. Jennifer M. Thomas*, Saline Co. Cir. Ct., No. 07J5-CR00067-01.

9. Contrary to Thomas's sworn statements in her Application, further investigation revealed that Thomas failed to disclose that on December 13, 2006, Thomas pled guilty to and was convicted of the Class A Misdemeanor of Passing Bad Check - Less Than \$500, in violation of § 570.120. The court suspended the execution of sentence and ordered Thomas to serve 30 days in jail and two years of supervised probation. *State v. Jennifer M. Thomas*, Saline Co. Cir. Ct., Case No 06J5-CR00644.

10. It is inferable that Thomas failed to disclose her bad check conviction on her Application in order to mislead the Director regarding the full extent of her criminal history, thereby hoping to improve her chances the Director would approve her bail bond agent Application.

CONCLUSIONS OF LAW

11. Section 374.715.1 RSMo (Supp. 2013),¹ provides, in relevant part:

Applications for examination and licensure as a bail bond agent or general bail bond agent shall be in writing and on forms prescribed and furnished by the department, and shall contain such information as the department requires. Each application shall be accompanied by proof satisfactory to the department that the applicant is a citizen of the United States, is at least twenty-one years of age, has a high school diploma or general education development certificate (GED), is of good moral character, and meets the qualifications for surety on bail bonds as provided by Supreme Court rule.

12. Section 374.755.1 provides, in relevant part:

1. The department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any license required by sections 374.695 to 374.775 or any person who has failed to renew or has surrendered her or her license for any one or any combination of the following causes:

* * *

(2) Final adjudication or a plea of guilty or nolo contendere within the past fifteen years in a criminal prosecution under any state or federal law for a felony or a crime involving moral turpitude whether or not a sentence is imposed, prior to insurance of license date;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license in obtaining permission to take any examination required pursuant to section 374.695 to 374.755[.]

13. Section 374.750 provides:

The department may refuse to issue or renew any license required pursuant to sections 374.700 to 374.775 for any one or any combination of causes stated in section 374.755. The department shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of her right to file a complaint with the administrative hearing commission as provided by chapter 621.

¹ All statutory references are to the Revised Statutes of Missouri (Supp. 2013) unless otherwise noted.

14. Supreme Court Rule 33.17 states, in relevant part:

A person shall not be accepted as a surety on any bail bond unless the person:

* * *

(c) Has not, within the past 15 years, been found guilty of or pleaded guilty or nolo contendere to:

- a. Any felony of this state or the United States; or
- b. Any other crime of this state or the United States involving moral turpitude, whether or not a sentence was imposed[.]

15. "Courts invariably find moral turpitude in the violation of narcotic laws." *In re Frick*, 694 S.W.2d 473, 479 (Mo. banc 1985). Specifically, the Missouri Supreme Court has held that a felony conviction for possession of narcotics is a crime involving moral turpitude. *In re Shunk*, 847 S.W.2d 789, 91-92 (Mo. banc. 1993).

16. Convictions involving fraud necessarily involve moral turpitude. *Brehe v. Missouri Dep't of Elementary & Secondary Educ.*, 213 S.W.3d 720, 725 (Mo. App. W.D. 2007). Fraud is an essential element of a conviction for passing bad checks, and therefore, is a crime of moral turpitude. *Shaw v. Missouri Real Estate Comm'n*, No. 12-0052 RE (Mo. Admin. Hrg. Comm'n, Sept. 12, 2013).

17. "A guilty plea is evidence of the conduct charged and supports a finding in a professional licensing proceeding that the licensee is guilty of such conduct." *Missouri Real Estate Comm'n v. Howell*, No. 07-1388 RE (Mo. Admin. Hrg. Comm'n, April 22, 2008). A plea of guilty to a criminal charge is admissible as an admission against penal interest in any subsequent proceeding against the one who made it, for it is a solemn confession of the truth of the charge, though it is not conclusive and may be explained. *Pruett v. Wilform*, 477 S.W.2d 76, 80 (Mo. 1972).

18. Thomas may be denied a bail bond agent license pursuant to § 375.755.1(3) because she failed to disclose on her Application that she had pled guilty to and was convicted of a crime of moral turpitude; namely, Class A Misdemeanor of Passing Bad Check - Less Than \$500. *State v. Jennifer M. Thomas*, Saline Co. Cir. Ct., Case No 06J5-CR00644. By failing to disclose the conviction, Thomas used fraud, deception or misrepresentation in securing a bail bond agent license in order to improve the chances the Director would issue her a bail bond agent license.

19. Thomas may be denied a bail bond agent license pursuant to § 374.755.1(2) because she pled guilty to two (2) Class C Felonies of Possession of Controlled Substance (and crimes of moral turpitude) within the past 15 years, whether or not a sentence was imposed. *State v. Jennifer M. Thomas*, Saline Co. Cir. Ct., No. 07J5-CR00067-01.

20. Thomas may also be denied a bail bond agent license pursuant to § 374.755.1(2) because Thomas pled guilty to and was convicted of a crime of moral turpitude; namely, Class A Misdemeanor of Passing Bad Check - Less Than \$500. *State v. Jennifer M. Thomas*, Saline Co. Cir. Ct., Case No 06J5-CR00644.

21. By pleading guilty to two felonies and pleading guilty to and being convicted of a three (3) crimes of moral turpitude within the last 15 years, Thomas is disqualified for licensure because she fails to meet the qualifications for sureties as set forth in Missouri Supreme Court Rule 33.17(c). *State of Missouri v. Jennifer M. Thomas*, Saline Co. Cir. Ct., Case No. 07J5-CR00067-01 and *State v. Jennifer M. Thomas*, Saline Co. Cir. Ct., Case No 06J5-CR00644. The Director has no discretion when a person does not meet the minimum qualifications of a bail bond agent, and therefore, must refuse to issue Thomas a bail bond agent license. See *Joyce v. Director of Dep't Ins., Fin. Insts. & Prof'l Reg'n*, 07-1364 DI (Mo. Admin. Hrg. Comm'n July 7, 2008).

22. The Director has considered Thomas's history and all of the circumstances surrounding her Application for licensure. Issuing Thomas a bail bond agent license would not be in the interest of the public. Accordingly, the Director exercises his discretion in refusing to issue her bail bond agent license. Furthermore, pursuant to Mo.S.Ct.R. 33.17(c), Thomas is disqualified for a bail bond license, and the Director has no discretion and must refuse to issue Thomas a bail bond agent license.

23. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the bail bond agent license application of Jennifer M. Thomas is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 14TH DAY OF MARCH, 2014.




JOHN M. HUFF
DIRECTOR

NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120 RSMo. Pursuant to 1 CSR 15-3.290, unless you send your complaint by registered or certified mail, it will not be considered filed until the Administrative Hearing Commission receives it.

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of March, 2014, a true and accurate copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail, UPS, electronic tracking and signature required, at the following address:

Jennifer M. Thomas
608 W. 4th
Carrollton, Missouri 64633

No. 1Z0R15W84291903297


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