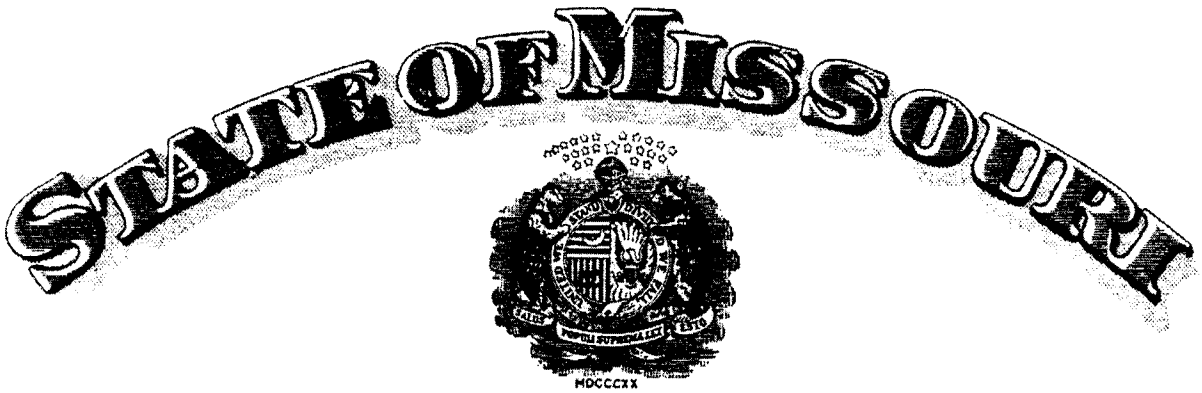


DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

P.O. Box 690, Jefferson City, Mo. 65102-0690

In the Matter of:	)	
	)	**MDI Case No. 05-1114352C**
GERALD L. CUMMINGS,	)	
	)	
Respondent.	)	

ORDER OF BAIL BOND AGENT REVOCATION

Douglas M. Ommen, Director of the Department of Insurance, Financial Institutions and Professional Registration, after a disciplinary hearing on June 18, 2007, and a review of the record (Exhibits 3A and 3) and the findings of fact, conclusions of law and order (Exhibit 4) of the Circuit Court of Cole County, Missouri in W. Dale Finke v. Gerald L. Cummings, Case No.06AC-CC01084, does hereby make the following order:

1. Douglas M. Ommen is the Director of the Department of Insurance, Financial Institutions and Professional Registration, whose duties, pursuant to RSMo Chapter 374, include the supervision, regulation, qualification and discipline of bail bond agents.

2. Gerald L. Cummings ("Cummings") was issued a bail bond license on November 22, 1994, which expired on November 22, 2005.

3. The Director filed a complaint on November 16, 2005 and an amended complaint on March 20, 2006 against Cummings before the Administrative Hearing Commission alleging several causes for disqualification or discipline, including cause under §374.755.1(6), RSMo (Cumulative Supp. 2005),[1] for violations of law, to wit: violations of §§195.202 and 571.030.1, RSMo (2000) on February 26, 2002.

5. On July 6, 2006, the case came on for hearing before the Administrative Hearing Commission. ("AHC Hearing") On November 7, 2006, the Administrative Hearing Commission issued a decision, which concluded in part, that because Cumming's violations of law occurred before January 1, 2005, the effective date of the current provision of §374.755.1(6), there was no cause to disqualify or discipline Cummings. Although receiving prior notice, Cummings did not file an answer or appear at the AHC Hearing.

6. On November 21, 2006, the Director filed a petition for judicial review. Although being served notice of the action by registered mail, Cummings did not file a responsive pleading or enter any appearance in circuit court. On March 23, 2007, the Circuit Court of Cole County, Missouri reversed the decision of the Administrative Hearing Commission and concluded that cause does exist to disqualify or discipline Cummings. A fair reading of the Court's conclusions of law is §374.755.1(6), RSMo (Cumulative Supp. 2005) shall be properly applied to current licensees and may disqualify a bail bond agent from a state license, even if the disqualifying violations of law occurred prior to January 1, 2005. On January 3, 2007, the Circuit Court of Cole

[1] Became effective on January 1, 2005. L.2004, SB 112 § B (92nd Gen. Assembly., 2nd Reg. Sess.)

County certified the record of the underlying Administrative Hearing Commission proceeding, along with its review and reversal. (Exhibits 3A, 3 and 4).

7. Thereafter, the Director notified Cummings of the disciplinary hearing to be held at 10:00 p.m. on June 18, 2007. Cummings failed to appear. At the hearing, counsel for the Consumer Affairs Division presented the record of the proceedings and recommended the Director enter an order of revocation.

8. The Director, therefore, adopts the following findings:

a. On or about February 26, 2002, Cummings violated §195.202, RSMo (2000) when he possessed a controlled substance in Cass County, Missouri, knowing of its presence and illegal nature.

b. On or about February 26, 2002, Cummings violated §571.030.1, RSMo (2000), when he knowingly carried a concealed weapon upon or about his person, readily capable of lethal use.

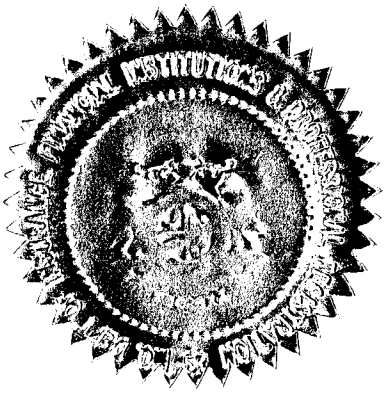
9. As §374.755, RSMo (Cumulative Supp. 2005) provides that the Director "may" suspend or revoke a bail bond license, the Director has discretion for disqualifying or disciplining a licensee. State Bd. Of Regis'n for the Healing Arts v. Finch, 514 S.W. 2d 608 (Mo. App., E.D. 1984); Joyce v. Director of Insurance, No. 97-3416 DI (Mo. Admin. Hearing Comm'n May 28, 1998); James A. Gillihan v. Director of Insurance, No. 04-1652 DI (Mo. Admin. Hearing Comm'n December 21, 2006); Rochelle K. Whatley v. Director of Insurance, No. 05-1074 DI (Mo. Admin. Hearing Comm'n January 3, 2007). A bail bond agent has quasi-police powers including the authority to take custody of defendants released on bail by the courts. The violation of law involving illegally carrying a concealed weapon reveals a disregard of the weapons laws and a significant

risk to the courts, defendants released on bail, and the public-at-large in licensing Cummings. In applying this discretion, the Director has considered the history of the Cummings and the circumstances of the violations as described in the grand jury indictment and sentence and judgment. (Exhibit 7 – AHC Hearing). Moreover, the Director concludes that Cummings may no longer be qualified by supervising courts under Supreme Court Rule 33.17 as a bail bond agent. Rule 33.17 provides, in 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 ...to:
> (1) Any felony of this state or the United States; or
> (2) Any other crime of this state or the United States involving moral turpitude,
>
> whether or not a sentence is imposed.

NOW, THEREFORE, IT IS ORDERED that the bail bond agent license of Gerald L. Cummings is REVOKED.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 19th DAY OF JUNE, 2007.



Douglas M. Ommen
Director

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a certified copy of the foregoing document was sent by certified pre-paid first class mail this 19th day of June 2007, to:

Gerald L. Cummings
Route 1, Box 19
Amsterdam, MO 64723