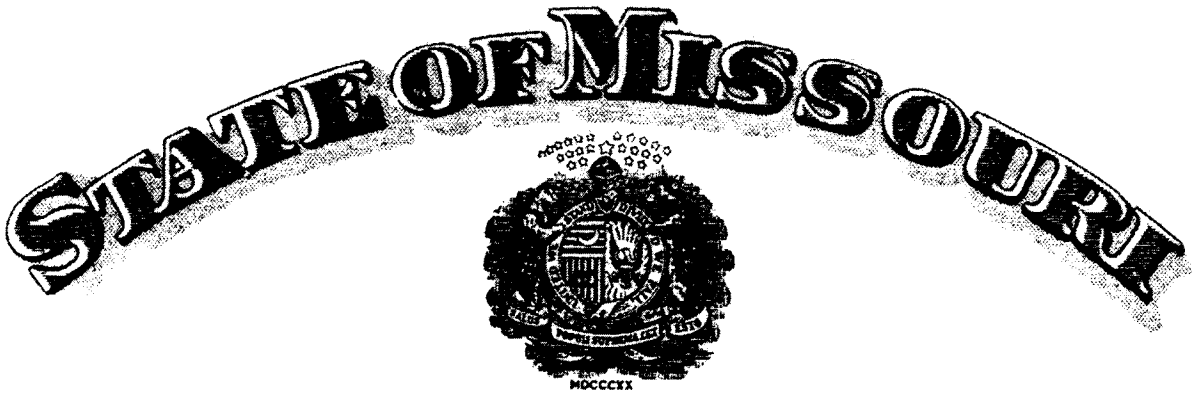


DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

IN RE:	)	
	)	**MDI Case No. 06-0331176C**
GERALD T. FRANKS,	)	**AHC Case No. 06-0655DI**
	)	
Respondent	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF DISCIPLINE

DOUGLAS M. OMMEN, Director of the Department of Insurance, Financial Institutions and Professional Registration, does hereby make the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. Douglas M. Ommen is the Director of the Department of Insurance, Financial Institutions and Professional Registration (the "Department"), whose duties, pursuant to RSMo Chapters 374 and 375, include the supervision, regulation, and discipline of insurance producers, bail bond agents and general bail bond agents (the "Director").

2. Gerald Franks ("Franks") is a licensed general bail bond agent in good standing with the Director (license number GB334955).

3. The Consumer Affairs Division of the Department filed a complaint against Franks with the Administrative Hearing Commission on May 11, 2006, seeking a finding that sufficient cause existed for disciplining Franks' license based on information and allegations pursuant to § 374.755.1(2) (Cum. Supp. 2005).

4. Franks, through counsel, filed his Answer to Petitioner's Complaint on July 6, 2006.

5. Following a hearing before the Administrative Hearing Commission ("AHC") on October 2, 2006, and pursuant to the AHC's Order of November 2, 2006, the parties filed a Joint Motion for Consent Order, Joint Stipulation of Facts, Consent to Finding of Cause for Discipline and Waiver of Hearing (the "Motion"). The parties filed the Motion with the AHC on December 4, 2006, consenting to a finding of cause to discipline Franks' license pursuant to RSMo § 374.755.1(2) (Cum. Supp. 2005).

6. The AHC issued a Consent Order on December 7, 2006, incorporating the facts stipulated in the parties' Motion and concluding that Franks' general bail bond agent license was subject to discipline under RSMo § 374.755.1(2) (Cum. Supp. 2005). On the same date, the AHC certified the record of its proceeding to the Director pursuant to § 621.110, RSMo 2000.

7. Thereafter, the Director notified Franks of a disciplinary hearing to be held at 10:00 a.m. on January 31, 2007, in the offices of the Director, 301 West High Street, Room 530, Jefferson City, Missouri.

8. Franks appeared at the disciplinary hearing with counsel, Charles A.

Kellogg, Esq. At the hearing, counsel for the Consumer Affairs Division presented the decision, record and order of the AHC and, on behalf of the Consumer Affairs Division, recommended Respondent's general bail bond agent license be revoked. Franks presented testimony on his behalf.

9. The Director hereby adopts and incorporates the December 7, 2006 Consent Order of the AHC and the stipulation of the parties referenced herein and does hereby find in accordance with the same.

10. On or about February 7, 2006, in the Circuit Court of Daviess County, State of Missouri, Division II (Case No.: CR 305-63F), Franks pleaded guilty to the charge of Possession of a Controlled Substance pursuant to RSMo § 195.202 for possession of greater than 35 grams of marijuana on or about July 22, 2005. Such crime is a felony.

11. Franks thereby violated §§ 374.755.1(2) RSMo. and has admitted the foregoing conduct is cause for disciplining his general bail bond agent license.

MITIGATING FACTORS

12. On February 8, 2006, upon Franks' plea of guilty, the Circuit Court of Daviess County suspended imposition of sentence and placed Franks on five years probation under the supervision of the State Board of Probation and Parole. To date, Franks has complied with the terms of his probation.

13. Franks has accepted responsibility for the conduct that led to his plea of guilty and has demonstrated a desire to conduct the bail bond business in full compliance with the laws of this state.

14. Franks also sought, and continues to seek, professional counseling to assist with his recovery from the substance abuse problem underlying the felony charge at issue and does not appear to be a significant risk to the public.

CONCLUSIONS OF LAW

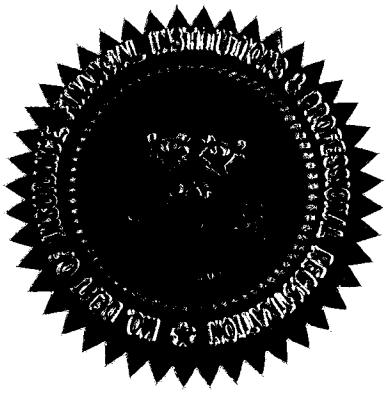
15. Pursuant to §375.141, RSMo Cum. Supp. 2004 and §621.110, RSMo 2000 the Director has the discretion to discipline Franks, including suspension or revocation of his general bail bond agent license.

16. Franks has been advised that any violation of the terms of his criminal probation may constitute separate grounds for further discipline of his license under §374.755 (RSMo Cum. Supp. 2005), including revocation.

ORDER

IT IS HEREBY ORDERED that based on the findings, the general bail individual agent license of Gerald Franks is SUSPENDED for a period of three (3) days, effective Monday, February 5, 2007, through Wednesday, February 7, 2007. During the period of this suspension, no bonds or other new business may be conducted by Gerald Franks or any individual bail bond licensee authorized to issue bail bonds pursuant to his general bail bond license.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 1st DAY OF FEBRUARY, 2007.



Douglas M. Ommen
Director

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a certified copy of the foregoing document was forwarded by pre-paid first class mail and via telefacsimile this 1st day of February, 2007, to:

Charles A. Kellogg, Esq.
400 West Kansas
Independence, Missouri 64050

Attorney for Respondent