State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS &
PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Rebecca Sue Casteel	)	Case No. 07A000502
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
644 W Stanley Street	)	
Buffalo MO 65622	)	
	)	

REFUSAL TO ISSUE BAIL BOND AGENT LICENSE

On September 28, 2007, Kathyrn Turner, Chief Investigations Counsel of the Consumer Affairs Division ("Consumer Division"), submitted a petition to the Director alleging cause for refusing to issue the bail bond agent license of Rebecca Sue Casteel ("Applicant").

On October 23, 2007, after reviewing the petition and the file in this matter the Director issued a hearing order / notice of hearing to the Applicant, advising her of a hearing to be held on November 29, 2007 at 9:00 a.m. The hearing order was mailed to the address provided by the Applicant in her application and was not returned.

NOW on this date, the matter came on for hearing. Mary Erickson, Senior Enforcement Counsel, appeared on behalf of the Consumer Affairs Division and Applicant did not appear. After an opportunity for hearing, the Director issues the following findings of fact, conclusions of law and order:

FINDINGS OF FACT

1. Rebecca Sue Casteel ("Applicant"), whose residence is currently unknown, was formerly was a resident at 644 W. Stanley Street, Buffalo, Missouri, 65622.

2. On July 2, 2007, Applicant filed a Missouri Uniform Application for Bail Bond or Surety Recovery Agent License with the Department of Insurance, Financial Institutions and Professional Registration seeking a bail bond agent license.

3. Question C of Part III of the Application asks:

> Have you ever been adjudicated, convicted, pled or found guilty of any...felony...? 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)...

4. Applicant checked the "Yes" answer to this question.

5. On August 2, 1999, three separate Informations were filed against Applicant in the Circuit Court of Dallas County, Missouri, alleging that Applicant committed multiple acts of the class D felony of Passing Bad Checks. Insufficient funds checks written by Applicant totaled twelve from March 14, 1999 through April 4, 1999.

6. Applicant entered pleas of guilty on all counts of each Information. The Court suspended imposition of sentence on all counts and placed the Applicant on five years probation.

7. This order is in the public interest.

CONCLUSIONS OF LAW

8. Section 374.750, RSMo 2000 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.

9. Section 374.755.1, RSMo (Cum. Supp. 2006) provides, in part:

> The department may cause a complaint to be filed ....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...law for...a crime involving moral turpitude...whether or not sentence is imposed...;

(6) Violation of any provision of or any obligation imposed by the laws of this state ....

10. Section 374.715.1 RSMo (Cum. Supp. 2006) provides, in part:

> 1. Applications for...licensure as a bail bond agent...shall contain such information as the department requires...Each application shall be accompanied by proof satisfactory to the department that the applicant...meets the qualifications for surety on bail bonds as provided by supreme court rule.

11. Supreme Court 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, any other state, or the United States; or
>
> (2) Any other crime of this state, any other state, or the United States involving moral turpitude,
>
> whether or not a sentence is imposed;

Disqualification by 1999 Pleas

12. Applicant may be disqualified and therefore, refused the issuance of a bail bond agent license, based upon §§374.750 RSMo 2000 and 374.755.1(2) RSMo (Cum. Supp. 2006) for the 1999 Pleas. The current statute is to be properly applied to licensing actions. (*Compare* ***Huddlestonsmith v. Director of Insurance,*** Case No. 06-0161 DI (November 13, 2006); ***Polsky v. Director of Insurance***, Case No. 06-1458 DI (April 24, 2007).

13. Moreover, the current Supreme Court Rule 33.17, which became effective on January 1, 2007, is also properly applied. As Applicant has failed to submit proof that she "meets the qualifications for surety on bail bonds as provided by supreme court rule" under §374.715.1 RSMo (Cum. Supp. 2006), the Director has no discretion to issue the bail bond license. ***Phillip L. Joyce v. Director of Insurance***, No. 00-2668 DI (Mo. Admin. Hearing Comm'n July 3, 2001). The

interplay of §374.715.1 and Supreme Court Rule 33.17 remove any discretion in regards to Applicant's 1999 Pleas. Section 374.715 and Supreme Court Rule 33.17 impose "a mandatory and not a discretionary requirement. ....[U]nder those provisions, [the Applicant] cannot be licensed as a general bail bond agent because of his felony convictions." ***Joyce*** (2001), at p.5. Section 374.715.1 does not make any distinction for bail bond agents. As Supreme Court Rule 33.17 is now effective and being applied by courts throughout the state, it is now appropriate to apply the current rule in this matter.

14. The 1999 Pleas are a failure to submit satisfactory proof that Applicant "meets the qualifications for surety on bail bonds as provided by supreme court rule", which constitutes a "violation of ... [an] obligation imposed by the laws of this state", and is grounds for disqualification and refusal under §374.755.1(6), RSMo (Cum. Supp. 2006). In addition, the 1999 Pleas constitute a violation of §570.120 RSMo and a ground for refusal to issue a license under §374.755.1(6) RSMo (Cum. Supp. 2006) as well.

Discretion

15. Although §374.750 provides that the Director "may" refuse to issue a license, the Director has no discretion under this section for disqualifying Applicant for the 1999 Pleas. The disqualification under §374.715.1 RSMo (Cum. Supp. 2006) is mandatory and the Director exercises any discretion suggested by statute to comply with the mandatory disqualification under Supreme Court rule.

16. The Director, in making this decision, has considered the evidence adduced at the hearing in the matter, all of the information within the whole record of Application as presented by the Applicant, and all information gathered by the Consumer Affairs Division. Any failure to specifically address a piece of evidence, information, position or argument of any party does not indicate that the Director has failed to consider relevant information, but indicates rather that the omitted material was not dispositive of the Director's decision.

17. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the bail bond agent license application of Applicant Rebecca Sue Casteel is hereby REFUSED.

IT IS FURTHER ORDERED that, effective on this date, Applicant in not licensed to conduct business as a bail bond agent in this state.

SO ORDERED.

WITNESS MY HAND THIS 29th DAY OF November, 2007.

DOUGLAS M. OMMEN
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.

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of November, 2007, a copy of the foregoing notice and order was served upon the Applicant in this matter by certified U.S. Mail.