State of Missouri

Department of Insurance, Financial Institutions & Professional Registration

IN THE MATTER OF:	)	
	)	
Douglas Brian Meeks	)	Case No. 07A000786
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
3624 E. Hwy 72 Fredericktown, MO 63645	)))	

REFUSAL TO RENEW BAIL BOND AGENT LICENSE

On June 23, 2008, Dale Hardy Roberts, Special Investigations Legal Counsel for the Consumer Affairs Division, submitted a petition to the Director alleging cause to refuse to renew the bail bond agent license of Douglas Brian Meeks. After reviewing the petition and the file in this matter the Director issues the following findings of fact, conclusions of law and summary order:

FINDINGS OF FACT

1. Douglas Brian Meeks is a Missouri resident with an address of 3624 E. Hwy 72, Fredericktown, MO 63645.

2. Meeks first received a license as a bail bond agent on December 22, 2004.

3. On November 19, 2007, Meeks filed an application seeking renewal of his bail bond agent license.

4. A review of the current renewal application revealed facts which would prevent any further renewals and the Applicant's license expired on December 22, 2007.

5. Question B of Part III of the 2007 Renewal 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)...

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

7. Applicant appeared in the 22nd Judicial Circuit, City of St. Louis, Missouri, and entered a guilty plea to two felonies.

8. On June 8, 1994, Applicant entered a guilty plea to the Class C felony of possession of a controlled substance (more than 35 grams of marijuana) in violation of Section 195.202 of the Revised Statutes of Missouri.

9. On that same date, Applicant received a suspended imposition of sentence and was placed on probation for one year, for possession of a controlled substance.

10. On June 8, 1994, Applicant also entered a guilty plea to the Class C felony of receiving stolen property (more than $150 in value) in violation of Section 570.080 of the Revised Statutes of Missouri.

11. On that same date, Applicant received a suspended imposition of sentence for the offense of receiving stolen property. However, for this offense, Applicant was placed on probation for two years.

12. Applicant entered his plea of guilty to each of the aforementioned felonies fewer than 15 years ago.

13. Additional investigation revealed that Meeks failed to provide honest and complete answers when he completed his 2004 application for a bail bond license.

14. On the 2004 application the relevant question was in Part III but, at that time, it appeared as "question C." That question asked:

> Have you ever been convicted of or pled nolo contendere (no contest) to any misdemeanor or felony or currently have pending misdemeanor or felony charges filed against you ? (Misdemeanor does not mean minor traffic violations.)

15. Meeks answered "No" to that question, thus failing to report the criminal cases set out above.

16. Meeks' answer on the 2004 Application was not the truth.

17. This order is in the public interest.

CONCLUSIONS OF LAW

18. 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.

19. Section 374.755.1, RSMo (Cum. Supp. 2007) 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 ....

20. Section 374.715.1 RSMo (Cum. Supp. 2007) 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.

21. 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 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;

Disqualification for 1994 Guilty Pleas

22. Applicant may be disqualified and therefore, refused a renewal of his license, based upon the §§374.750 and 374.755.1.(2), RSMo (Cum. Supp. 2006) for the 1995 Scott County Adjudications. The Director must apply the statute in effect at the time of the application. 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).

23. Moreover, as Applicant has failed to submit proof that he "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). A prior decision of the Administrative Hearing Commission involving this Applicant was in error and the Applicant, despite his felony convictions, has remained licensed since 1998 because the Director failed to plead this mandatory disqualification. (see Joyce v. Director of Insurance, No. 97-3416 DI (Mo. Admin. Hearing Comm'n May 28, 1998)). The interplay of §374.715.1 and Supreme Court Rule 33.17 remove any discretion in regards to an applicant's felony offense. 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. Neither the law, nor Supreme Court Rule makes any distinction for bail bond agents.

24. Applicant's failure to submit proof that he "meets the qualifications for surety on bail bonds as provided by supreme court rule" also constitutes a "violation of ... [an] obligation imposed by the laws of this state", which is grounds for disqualification and refusal under §374.755.1(6), RSMo (Cum. Supp. 2007).

Discretion

25. As §374.750 provides that the Director "may" refuse a license renewal, the Director has discretion under this section for disqualifying Applicant for any or all of the above findings and conclusions. 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).

26. A bail bond agent has quasi-police powers including the authority to take custody of defendants released on bail by the courts. Honesty and candor are very important to this law enforcement function.

27. In applying this discretion, the Director has considered the history of the Applicant, the failure to provide honest and complete answers on his 2004 application, and all of the circumstances surrounding the Applicant's 2007 Renewal Application.

28. Finally, despite decisions by the Administrative Hearing Commission that may be subject to contrary opinion, the Director believes that Rule 33.17 is currently effective and is intended by the Missouri Supreme Court to guide all Missouri courts charged with administering the qualifications for bail bond agents operating in those courts. For the Director to apply a conflicting or different qualification standard would produce the very undesirable result of the executive branch granting licenses to individuals, but who are unqualified by review in the judicial branch. For all of these reasons, and even if §374.715 could be interpreted in such a manner to not mandate disqualification of the Applicant, the Director exercises his discretion in refusing to renew the Applicant.

29. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the renewal of the bail bond agent license of Applicant Douglas Brian Meeks is hereby summarily REFUSED.
SO ORDERED.

WITNESS MY HAND THIS 24th DAY OF June, 2008.

Linda Bohrer

LINDA BOHRER, ACTING 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 25th day of JUNE, 2008, a copy of the foregoing notice, order and petition was served upon the Applicant in this matter by certified U.S. Mail.

Karen Crutchfield

SR. OFFICE SUPPORT ASST.
INVESTIGATIONS SECTION