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State of Missouri
Department of Insurance, Financial Institutions & Professional Registration

IN THE MATTER OF:	)	
	)	
Jessie Larkie,	)	Case No. 08A000029
Applicant.	)	
Serve at:	)	
	)	
5621 East 27th Street	)	
Kansas City, Missouri, 64127	)	
	)	

REFUSAL TO ISSUE BAIL BOND AGENT LICENSE

On October 10, 2008, Dale Hardy Roberts, Special Investigations Legal Counsel for the Investigations Section of the Division of Consumer Affairs, submitted a Petition to the Director alleging cause to refuse to issue a Bail Bond Agent license to Jessie Larkie. After reviewing the Petition, and the investigative report, the Director issues the following findings of fact, conclusions of law and summary order:

FINDINGS OF FACT

1. Applicant is a Missouri resident with an address of 5621 East 27th Street, Kansas City, Missouri, 64127

2. On April 14, 2008, Applicant filed a Missouri Uniform Application for Bail Bond or Surety Recovery Agent License with the Department seeking licensure as a bail bond agent.

3. Question B of Part III of the Application 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)...

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4. Larkie answered "yes" to this question.

5. On June 13, 2005, Larkie appeared in the 7th Circuit Court, of Clay County, Missouri, and entered a plea of guilty to the class D felony of "Nonsupport in Each Of Six Individual Months Within Any Twelve Month Period, Amount owed is in excess of $5000 Felony D, RSMo: 568.040." (sic)

6. On August 14, 2005, the Court found that "...the defendant's plea of guilty is made voluntarily and intelligently and with full understanding of the charge and the consequences of the plea and with understanding of his/her rights attending a jury trial and the effect of a plea of guilty on those rights. The Court also finds there is a factual basis for the plea. The Court therefore accepts the plea of guilty to the charge of felony non-support."

7. Thereafter, the Court suspended imposition of Larkie's sentence for a period of five years with special terms and conditions.

8. Larkie's guilty plea and subsequent Suspended Imposition of Sentence occurred fewer than 15 years ago.

9. On December 20, 2005, while on probation for the above-referenced offense and because of his repeated failure to comply with the terms and conditions of his probation, the Court suspended Larkie's probation, forfeited his bond, and issued a Capias Warrant for his arrest with terms including "cash bond only."

10. Larkie's failure to comply with the terms and conditions of his probation and his related failure to appear in Court, as ordered, demonstrate his failure or a refusal to cooperate with the judicial system and his willingness to disregard lawful orders of the Court.

11. All of the competent and substantial evidence upon the whole record has been considered. In making this decision on behalf of the Department, I have considered the positions and arguments of all of the parties. Failure to specifically address a piece of evidence, position or argument of any party does not indicate there was a failure to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision.

CONCLUSIONS OF LAW

12. Section 374.715, RSMo (Cum. Supp. 2007) provides, in part:

> 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.

13. 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;

14. 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.

15. 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 felony...whether or not a sentence is imposed, prior to issuance of license date;
>
> (3) Use of fraud, deception, misrepresentation or bribery in securing any license or in obtaining permission to take any examination required pursuant to sections 374.695 to 374.775;
>
> (6) Violation of any provision of or any

obligation imposed by the laws of this state, department rules and regulations, or aiding or abetting other persons to violate such laws, orders, rules or regulations, or subpoenas;

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16. Applicant was found guilty of a felony within the fifteen years prior to the date of the application, this prevents the applicant from meeting the qualifications for surety on bail bonds as provided by Supreme Court Rule 33.17(f), a disqualification from obtaining a bail bond agent license under § 374.715, RSMo (Cum. Supp. 2007).

17. The plain meaning of 374.755.1, RSMo (Cum. Supp. 2007) includes both persons convicted as well as persons who entered a plea of guilty.

18. Interpreting a provision in a similar Missouri statute, the Western District Court of Appeals agreed that "if the legislature intended to enable persons who plead guilty to a crime and receive a suspended imposition of sentence to be granted a permit to acquire a concealable firearm, the legislature would not have included the "pled guilty" language in Section 571.090.1(2)." The Court held that the mere plea of guilty to the designated offense would prevent the applicant from qualifying for a license. *Carr v. Sheriff of Clay County*, 210 S.W.3d 414 (Mo.App. W.D. Nov 21, 2006) rehearing denied (Jan 30, 2007).

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

20. In applying this discretion, the Director has considered the history of the Applicant and all of the circumstances surrounding the application.

21. The denial of this application to renew a Bail Bond Agent license is therefore mandatory.

22. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the application for a bail bond agent license by Applicant Jessie Larkie is hereby summarily REFUSED.

SO ORDERED.

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WITNESS MY HAND THIS 29th DAY OF October, 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 thirty (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 October, 2008, a copy of the foregoing notice and order was served upon the Applicant in this matter by certified mail.

Karen Crutchfield

Karen Crutchfield
Senior Office Support Staff