STATE OF MISSOURI
DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)		
	)		
Christopher Butcher,	)	Case No.	08A000568
	)		
Applicant.	)		
	)		
Serve at:	)		
	)		
715 N. River Blvd.	)		
Independence, Missouri 64086	)		

REFUSAL TO ISSUE SURETY RECOVERY AGENT LICENSE

On December 11, 2009, Elfin L. Noce, as Legal Counsel for the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue a surety recovery agent license to Christopher Butcher ("Butcher"). 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. Christopher Butcher ("Butcher") is a Missouri resident with an address of 715 N. River Blvd., Independence, Missouri 64086.

2. On or about June 16, 2008, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Butcher's Missouri Uniform Application for Bail Bond or Surety Recovery License ("Application").

3. On the Application, Butcher indicated he was applying for a surety recovery agent license.

4. In the "Background Information" section of the Application, Question #3 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). For purposes of this application, a misdemeanor does not include minor traffic violations.

5. Butcher answered "Yes" to Background Question #3.

6. In explanation of his answer to Background Question #3, Butcher stated the following:

> In addition to the police report I enclosed, I have plead guilty to passing a bad check under $150.00, traffic offenses, and have a warrant in Whidbey Island, WA. for contempt of court as a result of a private phone conversation with the judge (not an appearance) while I was in Kansas City. I am disputing most of the monies owed as interest, but have made arrangements to pay this original debt. Dates and official paperwork, I regret, I do not have. I was young and never kept such documents. This is all I can recall. Thank you.

7. On July 21, 2008, Special Investigator Les Hogue ("Hogue") mailed a letter to Butcher requesting certified records of the Complaint/Indictment or the final adjudication for the charge of Passing A Bad Check ("certified documents"). Hogue requested a response on or before August 11, 2008. The letter was not returned as undeliverable.

8. On August 11, 2008, Butcher responded to Hogue's July 21, 2008 letter by fax, explaining the Passing A Bad Check charge by stating, "I wrote checks from my own account, for which I did not have the funds to cover. I was young and have grown up. I was incarcerated approx. 30 days and served community service." Butcher did not include the requested certified records.

9. On August 13, 2008, Hogue mailed a letter to Butcher, again requesting the certified documents. Hogue requested a response on or before September 12, 2008. The letter was not returned as undeliverable.

10. Butcher did not respond to the August 13, 2008 letter within 20 days.

11. On October 23, 2008, Hogue mailed a letter to Butcher, again requesting the certified documents. Hogue requested a response by October 30, 2008. The letter was not returned as undeliverable.

12. Butcher did not respond to the October 23, 2008 letter within 20 days.

13. On November 4, 2008, Hogue mailed a letter to Butcher requesting an explanation as to why Butcher has failed to respond to either the August 13, 2008 letter or the October 23, 2008 letter. Hogue requested a response on or before November 14, 2008. The letter was not returned as undeliverable.

14. Butcher did not respond to the November 4, 2008 letter within 20 days.

15. On December 9, 2008, Butcher emailed Hogue, stating he was still attempting to obtain

the requested certified documents.

16. On January 29, 2009, Hogue mailed a letter to Butcher, again requesting the certified documents. Hogue requested a response on or before February 13, 2009. The letter was not returned as undeliverable.

17. Butcher did not respond to the January 29, 2009 letter within 20 days.

18. On September 18, 2009, Hogue mailed a letter to the Island County Superior Court requesting the certified documents.

19. On October 9, 2009, Hogue received the certified documents from Island County, Washington.

20. On May 12, 1995, in the Superior Court of the State of Washington for Island County, *State of Washington v. Christopher Shawn Butcher*, Case No. 95-1-00056-9, Butcher pleaded guilty to the Class C Felony Unlawful Issuance of Bank Checks and was ordered to pay $2,944.32 in restitution for 10 bad checks he wrote and sentenced to 30 days confinement in the Island County Jail.

CONCLUSIONS OF LAW

21. Sections 374.783 through 374.789, RSMo, are the statutes relating to surety recovery agents and their licensure.

22. Section 374.784.5, RSMo (2008), states, in part:

> The director may refuse to issue any license pursuant to sections 374.783 to 374.789, for any one or any combination of causes stated in section 374.787.

23. Section 374.787, RSMo (Supp. 2008), provides, in part:

> 1. The director may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any surety recovery agent or any person who has failed to renew or has surrendered his license for any one or any combination of the following causes:
>
> (1)Violation of any provisions of, or any obligations imposed by, the laws of the state, the department of insurance, financial institutions and professional registration rules and regulations, or aiding or abetting other persons to violate such laws, orders, rules, or regulations;

(2) Final adjudication or a plea of guilty or nolo contendere in a criminal prosecution under state or federal law for a felony or a crime involving moral turpitude, whether or not a sentence is imposed;

(3) Using fraud, deception, misrepresentation, or bribery in securing a license or in obtaining permission to take any examination required by sections 374.783 to 374.789;

. . .

24. Title 20 CSR 100-4.100, Required Response to Inquiries by the Consumer Affairs Division, provides in relevant part:

. . .

(2) Except as required under subsection (2)(B)—

(A) Upon receipt of any inquiry from the division, every person shall mail to the division an adequate response to the inquiry within twenty (20) days from the date the division mails the inquiry…

(B) This rule shall not apply to any other statute or regulation which requires a different time period for a person to respond to an inquiry by the department. If another statute or regulation requires a shorter response time, the shorter response time shall be met. This regulation operates only in the absence of any other applicable laws.

25. Moral turpitude has been defined as "an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowman or to society in general, contrary to the accepted and customary rule of right and duty between man and man; everything 'done contrary to justice, honesty, modesty, and good morals'." *In Re Frick*, 694 S.W.2d 473, 479 (Mo. 1985). Crimes which involve moral turpitude include crimes involving violations of narcotics laws, fraud, false pretenses, and theft. *Id.*

26. Passing bad checks necessarily involves moral turpitude because it "always involve[s] the purpose to defraud or to take what belongs to another without consent." *Gillotti v. Missouri Real Estate Commission*, 07-0860 RE, (Mo.Admin.Hrg.Comm. 2008).

27. Butcher may be refused a surety recovery agent license based upon § 374.787.1(1), RSMo (Supp. 2008), for violating 20 CSR 100-4.100 by failing to respond to the August 13, 2008 letter within 20 days.

28. Butcher may be refused a surety recovery agent license based upon § 374.787.1(1), RSMo (Supp. 2008), for violating 20 CSR 100-4.100 by failing to respond to the October 23, 2008 letter within 20 days.

29. Butcher may be refused a surety recovery agent license based upon § 374.787.1(1), RSMo (Supp. 2008), for violating 20 CSR 100-4.100 by failing to respond to the November 4, 2008 letter within 20 days.

30. Butcher may be refused a surety recovery agent license based upon § 374.787.1(1), RSMo (Supp. 2008), for violating 20 CSR 100-4.100 by failing to respond to the January 29, 2009 letter within 20 days.

31. Butcher may be refused a surety recovery agent license based upon § 374.787.1(2), RSMo (Supp. 2008), for pleading guilty to Felony Unlawful Issuance of Bank Checks on May 12, 1995, in the Superior Court of the State of Washington for Island County, *State of Washington v. Christopher Shawn Butcher*, Case No. 95-1-00056-9, which is a felony and a crime of moral turpitude.

32. Butcher's explanation to the Department of his Passing Bad Check Charge is deceptive and misleading, in that he states it was for passing a bad check under $150, when, in fact, it was a for passing 10 bad checks totaling $2944.32. The most likely explanation for Butcher's failure to fully and truthfully disclose his Unlawful Issuance of Bank Checks guilty plea is that he intentionally did so in order to improve his chances of succeeding with his Application.

33. Butcher may be refused a surety recovery agent license based upon § 374.787.1(3), RSMo (Supp. 2008) for deceiving and misleading the Department in his explanation of his Unlawful Issuance of Bank Checks guilty plea on his Application.

34. In applying his discretion, the Director has considered the history of Butler and all of the circumstances surrounding Butler's Application including Butler's failure to respond to Department inquiries, his guilty plea to Felony Unlawful Issuance of Bank Checks, and his misrepresentations in the Application. Butler's history and failure to respond to Department inquiries raises questions of Butler's ability to comply with Missouri law and whether he can meet the significant responsibilities required of a licensed surety recovery agent. For these reasons, the Director exercises his discretion in refusing to issue a surety recovery agent license to Butler.

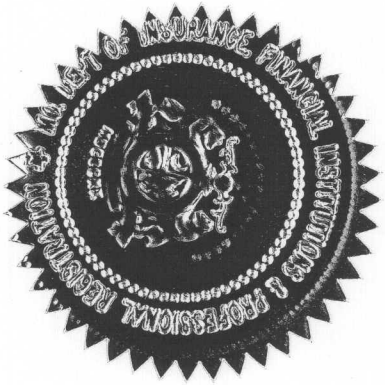
35. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that issuance of the surety recovery agent license of Applicant Christopher Butler is hereby REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 14th DAY OF DECEMBER, 2009.



JOHN M. HUFF
DIRECTOR

NOTICE

TO: Christopher Butler 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, 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 16th day of December, 2009, a duplicate original of the foregoing Order and Notice was served upon Christopher Butler by certified mail No. 7006 0100 0005 2090 6860 to:

Christopher Butler
715 N. River Blvd.
Independence, Missouri 64086

Karen Crutchfield
Karen Crutchfield
Senior Office Support Staff