

BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

DIRECTOR OF THE DEPARTMENT)
OF INSURANCE, FINANCIAL)
INSTITUTIONS AND PROFESSIONAL)
REGISTRATION)
STATE OF MISSOURI,)
)
Petitioner,)
)
vs.)
)
ASAP BAIL BONDS, INC.,)
)
Respondent.)
)
Serve:)
ASAP Bail Bonds, Inc.)
4008 E. Truman Road)
Kansas City, MO 64127)

FILED

FEB 07 2011

ADMINISTRATIVE HEARING
COMMISSION

Case No.

COMPLAINT

The Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, through counsel, complains and requests the Administrative Hearing Commission find that cause exists to discipline the general bail bond agent license held by Respondent ASAP Bail Bonds, Inc. because:

INFORMATION RELEVANT TO ALL COUNTS

1. Petitioner is the Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration ("Director" of the "Department"). The Director has the duty to administer Chapters 374 and 375, RSMo, which includes the supervision, regulation, and discipline general

bail bond agents and bail bond agents licensed to operate and conduct business in the State of Missouri.

2. The Department issued Respondent ASAP Bail Bonds, Inc. ("ASAP") a general bail bond agent license (No. 8014127) on March 20, 2002. ASAP's license is currently active and set to expire on March 20, 2011. ASAP was registered with the Secretary of State under Certificate of Incorporation No. 00503165 until it was administratively dissolved on August 25, 2010 for failing to file a correct and current annual report.

3. The Department issued Raymond G. Plante ("Plante") a bail bond agent license on November 21, 1995. Plante's license is currently active and set to expire on November 21, 2011.

4. At all times relevant to this Complaint, Plante was the owner and president of ASAP.

5. Joshua Smith ("Smith") paid \$11,000 to ASAP agent Norm Clark to bond out of jail in February 2009.

6. Smith paid ASAP by charging \$11,000 to his American Express card.

7. The \$11,000 was comprised of \$10,000 for collateral and a \$1,000 fee to ASAP.

8. Smith met his court obligations in May 2009, thus was entitled to a refund of \$10,000, or the collateral portion of the \$11,000 charge. ASAP was entitled to keep \$1,000 as its fee.

9. Smith contacted ASAP and someone with ASAP told him that it may take up to ninety days for the \$10,000 to be credited back to his American Express card.

10. Ninety days passed and ASAP had not yet credited the \$10,000 back to Smith's American Express card.

11. Smith filed a complaint against ASAP with the Department.

12. In response to Mr. Smith's complaint, Plante sent a letter on ASAP letterhead which stated:

Mr. Smith did pay in full with an American Express, unfortunately the money wasn't transferred to another account for savings; this is a mistake on our part, we intent [sic] to refund his money in full. A check for 2500.00 is being mailed today and we intend to have the balance paid by the end of January and no later than the end of February. We apologized to Mr. Smith and understand his frustration. This matter will be handled swiftly.

13. The \$2,500 check was returned to Plante as undeliverable.

14. Smith contacted American Express and American Express credited \$10,000 to his card.

15. American Express' fraud department is working with ASAP to resolve the \$10,000 debt by retaining money whenever ASAP processes a fee by credit card.

16. Plante testified before the Director's investigator on February 2, 2010 regarding Smith's payment, and stated under oath:

[W]ell, it was a surprise to me when it came in. It was a lot of money, a big blow and I didn't set it off to the side. Like the letter I wrote you, I apologized to the guy. It's my fault.

You know, I should have looked at everybody's paperwork all the way through

17. Section 374.719 provides, in part:

1. A licensee may accept collateral security from the principal in a fiduciary capacity, which collateral shall be returned upon final termination of liability on the bond. When a licensee accepts collateral, the licensee shall provide a prenumbered written receipt, which shall include a detailed account of the collateral received by the licensee. The acceptance of collateral security by a bail bond agent shall be reported to the general bail bond agent.

2. The collateral security required by the licensee shall be reasonable in relation to the amount of the bond.

3. If a failure to appear, absconding or attempting to abscond, or a judgment of forfeiture on the bond has occurred, the collateral security may be used to reimburse the licensee for any costs and expenses incurred associated with the forfeiture.

18. Section 374.755.1 provides, in part:

1. The department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any license required by sections 374.695 to 374.775 or any person who has failed to renew or has surrendered his or her license for any one or any combination of the following causes:

* * *

(5) Misappropriation of the premium, collateral, or other things of value given to a bail bond agent or a general bail bond agent for the taking of bail, incompetency, misconduct, gross negligence, fraud, or misrepresentation in the performance of the functions or duties of the profession licensed or regulated by sections 374.695 to 374.775;

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

19. The Administrative Hearing Commission has jurisdiction over this Complaint pursuant to § 621.045, RSMo (Supp. 2010).¹

COUNT I

20. Respondent ASAP violated § 374.719 which is a ground to discipline its general bail bond agent license pursuant to § 374.755.1(6).

21. ASAP accepted \$10,000 of the \$11,000 Smith charged to his American Express card as collateral in a fiduciary capacity.

22. ASAP's liability on the bond terminated once Smith met his court obligations.

23. Once ASAP's liability on the bond terminated, ASAP was obligated to return Smith's collateral.

24. By failing to return Smith's \$10,000 collateral, ASAP violated § 374.719 which is a ground to discipline its general bail bond agent license pursuant to § 374.755.1(6).

COUNT II

25. By failing to return Smith's \$10,000, ASAP misappropriated collateral which is a ground to discipline its general bail bond agent license pursuant to § 374.755.1(5).

¹ All statutory references are to the 2010 Supplement to the Revised Statutes of Missouri unless otherwise noted.

WHEREFORE, based on the foregoing, the Director respectfully requests that the Commission make findings of fact and conclusions of law stating that the Director has established cause to discipline Respondent ASAP's general bail bond agent license pursuant to §§ 374.755.1(5) and (6) RSMo (Supp. 2010).

Respectfully submitted,



Tamara W. Kopp
Missouri Bar # 59020
Senior Enforcement Counsel
Missouri Department of Insurance,
Financial Institutions and
Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-2619
Facsimile: (573) 526-5492
Tamara.kopp@insurance.mo.gov

ATTORNEY FOR PETITIONER
JOHN M. HUFF, Director
Missouri Department of Insurance,
Financial Institutions and
Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-1927