DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

P.O. Box 690, Jefferson City, Mo. 65102-0690

In re:	)	
	)	Case No. 100512457C
ASAP Bail Bonds, Inc.,	)	
	)	
Respondent.	)	

CONSENT ORDER

John M. Huff, Director of the Department of Insurance, Financial Institutions and Professional Registration takes up the above matter for consideration and disposition. The Consumer Affairs Division, through legal counsel Tamara W. Kopp, and ASAP Bail Bonds, Inc., through legal counsel Ross C. Nigro, have reached a settlement in this matter and have consented to the issuance of this Consent Order.

1. John M. Huff is the duly appointed Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration ("Director" of the "Department") whose duties, pursuant to Chapters 374 and 375

RSMo,[1] include the supervision, regulation and discipline of insurance producers and business entity insurance producers.

2. The Consumer Affairs Division has the duty of conducting investigations into the acts of bail bond agents and general bail bond agents under the insurance laws of this state and is authorized by the Director to investigate and to recommend enforcement action for violations of the insurance laws of this state. *See* §§ 374.190 and 374.764.

3. The Department issued Respondent ASAP Bail Bonds, Inc. ("ASAP") a general bail bond corporation license (No. 8014127) on March 20, 2002. ASAP's license expired 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. On August 3, 2011, in response to ASAP's Request for Termination, the Secretary of State issued a Certificate of Termination concerning ASAP.

4. At all times relevant to this matter, Raymond G. Plante ("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. Smith paid ASAP by charging $11,000 to his American Express card.

6. Of the $11,000, $1,000 was ASAP's bond fee and $10,000 consisted of collateral.

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

7. Smith met his court obligations on May 22, 2009, and was therefore entitled to a return of the $10,000 collateral.

8. ASAP failed to set aside the $10,000 collateral in a separate account.

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

10. After 90 days passed and ASAP had not credited the $10,000 back to Smith's American Express card, Smith filed a complaint against ASAP with the Department's Consumer Affairs Division on November 11, 2009.

11. In response a letter of inquiry from a Department investigator, Plante wrote on December 6, 2009:

> 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.

12. ASAP retained no receipts from the Smith transaction.

13. On June 30, 2011, the Director filed an Amended Complaint against ASAP with the Administrative Hearing Commission seeking a finding that the Director had cause to discipline ASAP's general bail bond corporation license for 1) failing to return collateral accepted in a fiduciary capacity, 2) misappropriating collateral, and 3) failing to maintain records pursuant to §§ 374.755.1(5) and (6). *See Director v. ASAP Bail Bonds, Inc.*, No. 11-0279 DI (Mo. Admin. Hrg. Comm'n).

14. 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.

4. The general bail bond agent shall retain records of the acceptance, return, or judgment of forfeiture resulting in the use of the collateral to reimburse the licensee for a period of three years.

15. 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[.]

16. The Administrative Hearing Commission found cause to discipline ASAP's general bail bond corporation license pursuant to §§ 374.755.1(5) and (6) because ASAP: 1) failed to return collateral accepted in a fiduciary capacity, 2)

misappropriated collateral, and 3) failed to maintain records. *See Director v. ASAP Bail Bonds, Inc.,* No. 11-0279 DI (Mo. Admin. Hrg. Comm'n August 24, 2011).

17. The findings and conclusions of law of the Administrative Hearing Commission's Decision in *Director v. ASAP Bail Bonds, Inc.* are incorporated by reference. No. 11-0279 DI (Mo. Admin. Hrg. Comm'n August 24, 2011).

18. ASAP has the right to consult counsel at its own expense.

19. ASAP stipulates and agrees to waive any rights that it may have to a hearing before the Administrative Hearing Commission or the Director and any rights to seek judicial review or other challenge or contest of the terms and conditions of this Consent Order and forever releases and holds harmless the Department, the Director and his agents, and the Consumer Affairs Division from all liability and claims arising out of, pertaining to, or relating to this matter.

20. Each signatory to this Consent Order certifies by signing that he or she is fully authorized, in his or her own capacity, or by the named party he or she represents, to accept the terms and provisions of this Consent Order in their entirety, and agrees, in his or her personal or representational capacity, to be bound by the terms of this Consent Order.

Conclusions of Law

21. The Director has cause to discipline ASAP's general bail bond agent corporation license pursuant to §§ 374.755.1(5) and (6).

22. The Director is authorized to settle this matter and issue this Consent Order in the public interest pursuant to §§ 374.046, 621.045, 621.110 and § 536.060 RSMo 2000.

23. The terms set forth in this Consent Order are an appropriate disposition of this matter and entry of this Consent Order is in the public interest.

ORDER

IT IS ORDERED THAT ASAP Bail Bonds, Inc.'s general bail bond corporation license (No. 8014127) is hereby **REVOKED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 6TH DAY OF OCTOBER, 2011.

JOHN M. HUFF
Director, Missouri Department of Insurance, Financial Institutions and Professional Registration

CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Respondent has the right to a hearing, but that Respondent has waived the hearing and consented to the issuance of this Consent Order.

9-23-11

Raymond G. Plante, President
ASAP Bail Bonds, Inc.
Respondent
4008 E. Truman Road
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Date

9-23-11

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10-3-11

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