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

IN THE MATTER OF:	)	
	)	
John Brian Anderson,	)	Case No. 10-0916597C
	)	
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
1420 East Livingston	)	
Springfield, Missouri 65803	)	

REFUSAL TO ISSUE BAIL BOND AGENT LICENSE

On November 23, 2010, Kristen E. Paulsmeyer, Enforcement Counsel and counsel for the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue a bail bond agent license to John Brian Anderson ("Anderson"). 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. Anderson is a Missouri resident with an address of 1420 East Livingston, Springfield, Missouri, 65803.

2. On or about June 29, 2010, the Department of Insurance, Financial Institutions, and Professional Registration ("Department") received Anderson's Missouri Uniform Application for Bail Bond or Surety Recovery License ("Application").

3. In the "Background Information" section, Question B 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).

4. Anderson answered "Yes" to Background Question B.

5. In response to Question B, Anderson stated the following: "On 6-22-2000 I was charged with receiving stolen property though a store I owned Zak's Exchange. I plead guilty on 9-14-2001. That was the only time I have been in trouble. I have a Missouri Real Estate license, that I have held since 3-1996. [sic]"

6. On or about June 21, 2000, the Grand Jury of Greene County, Missouri, charged Anderson with two counts of the Class C Felony of Receiving Stolen Property in that on or about April 10, 2000 and April 21, 2000, Anderson, being in the business of buying and selling lawn mowers and other such items at Zak's Pawn Shop, with the purpose to deprive the owner of two Yard Machine MTD lawn mowers, received such property of a value of at least one hundred fifty dollars, believing it had been stolen.

7. On or about September 14, 2001, in *State of Missouri v. John Brian Anderson*, Case Number 100CF0149, Greene County Circuit Court, Missouri, Anderson pleaded guilty to two counts of the Class C Felony of Receiving Stolen Property in violation of § 570.080 RSMo (1994).

8. On or about November 30, 2001, the court suspended imposition of sentence and placed Anderson on probation for five years. As a special condition of probation, the court ordered Anderson to serve 120 days of shock probation in the Greene County jail (100 days suspended), to complete 400 hours community service, to pay the Crime Victims' Compensation Fund, and to make restitution.

9. In a letter dated June 30, 2010, the Department recommended Anderson consider withdrawing his bail bond application. In a letter dated July 16, 2010, Anderson responded:

> I john Anderson wish not to withdraw my app. For a bail bond agent and wish to continue with the process I have a felony because of a pawn shop that I use to own all most every pawn shop owner has aleast one I know of outher bail bond agents that have felonys so think I should be granted a bail bond license I also have a mo real estate sales person license with no complaints so I think I should be granted a bail bond agent license [sic] [.]

10. Anderson also submitted another response in a letter dated July 29, 2010 in which he states in part:

> I received you letter suggesting I withdraw my application for bail bond agent. My attorney recommended 1 that I do not do so, as, according to him, my case does not meet the requirements of a conviction and is supposed to leave me whole.
>
> As you know, I have my real estate licenses and have never had any complaints filed against me. The matter that seems to put my bail bond

license in jeopardy is more of a technical and administrative one.

When I owned my pawn shop, an employee accepted merchandise of $150.00 which was not the customer's to pledge. As owner of the business, even though I was not on the premises or involved in any other capacity other than being the licensee, I was charged. This is typical and endemic to the pawn shop industry.

CONCLUSIONS OF LAW

11. Section 374.715.1, RSMo (Supp. 2009), states:

> Applications for examination and licensure as a bail bond agent or general bail bond agent shall be in writing and on forms prescribed and furnished by the department, and shall contain such information as the department requires. Each application shall be accompanied by proof satisfactory to the department that the applicant is a citizen of the United States, is at least twenty-one years of age, has a high school diploma or general education development certificate (GED), is of good moral character, and meets the qualifications for surety on bail bonds as provided by supreme court rule. Each application shall be accompanied by the examination and application fee set by the department. Individuals currently employed as bail bond agents and general bail bond agents shall not be required to meet the education requirements needed for licensure pursuant to this section.

12. Section 374.750, RSMo (2000), states:

> 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. The department shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

13. Section 374.755.1, RSMo (Supp. 2009), provides, in part:

> 1. The department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, 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:
>
> * * *

(2) Final adjudication or a plea of guilty or nolo contendere within the past fifteen years in a criminal prosecution under any state or federal law for a felony or a crime involving moral turpitude whether or not a sentence is imposed, prior to issuance of license date;

* * *

(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 [.]

14. Section 570.080, RSMo (1994) states:

1. A person commits the crime of receiving stolen property if for the purpose of depriving the owner of a lawful interest therein, he receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.
2. Evidence of the following is admissible in any criminal prosecution under this section to prove the requisite knowledge or belief of the alleged receiver:
(1) That he was found in possession or control of other property stolen on separate occasions from two or more persons;
(2) That he received other stolen property in another transaction within the year preceding the transaction charged;
(3) That he acquired the stolen property for a consideration which he knew was far below its reasonable value.
3. Receiving stolen property is a class A misdemeanor unless the property involved has a value of one hundred fifty dollars or more, or the person receiving the property is a dealer in goods of the type in question, in which cases receiving stolen property is a class C felony.

15. Supreme Court Rule 33.17 states, 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 or nolo contendere to:
(1) Any felony of this state, any other state, or the United States; or
(2) Any other crime of this state, any other state, or the United States involving moral turpitude, whether or not a sentence was

imposed[.]

16. A plea of guilty is an admission as to the facts alleged in the information. *See, e.g., Wallace v. State*, 308 S.W.3d 283, 286-7 (Mo. App. S.D. 2010).

CAUSE FOR ORDER TO REFUSE TO ISSUE A BAIL BOND AGENT LICENSE

17. The Director may refuse to issue a bail bond agent license to Anderson pursuant to § 374.755.1(6), RSMo (Supp. 2009), because Anderson violated a provision of the laws of this state by committing the crime of Receiving Stolen Property in Missouri in violation of § 570.080 RSMo (1994).

18. The Director must refuse to issue a bail bond agent license to Anderson pursuant to § 374.715.1, RSMo (Supp. 2009), because Anderson fails to meet the minimum qualifications of a surety under Supreme Court Rule 33.17(c) and thus, does not meet the minimum qualifications of a bail bond agent under § 374.715.1, RSMo (Supp. 2009), in that Anderson pleaded guilty to two counts of a felony within the past fifteen years.

19. The Director may refuse to issue Anderson a bail bond agent license pursuant to § 374.755.1(2), RSMo (Supp. 2009) because Anderson pleaded guilty to two felonies, and each felony is cause to refuse to issue Anderson a bail bond agent license.

20. Though Anderson states "I have a felony because of a pawn shop that I use to own all most every pawn shop owner has aleast one I know of outher bail bond agents that have felonys...", and later stated "[a]s owner of the business, even though I was not on the premises or involved in any other capacity other than being the licensee, I was charged. This is typical and endemic to the pawn shop industry", his explanation does little to explain or show responsibility for his felonies or offer qualifications necessary to be a bail bond agent. A bail bond agent, similar to a pawn shop owner, must also show financial responsibility and abide by the laws of the state of Missouri. Anderson has failed to show he is qualified in this regard.

21. "A bail bond agent's professional skills include good moral character[.]" *Director of Insurance v. Girdner*, No. 99-3546 DI (Mo. Admin. Hrg. Comm'n April 19, 2000). "[T]he license granted places the seal of the state's approval upon the licen[see.]" *State ex rel. Lentine v. State Bd. of Health*, 65 S.W.2d 943, 950 (Mo. 1933). Granting Anderson a bail bond agent license is not in the interest of the public because Anderson has pleaded guilty to two felonies involving theft and dishonesty and offered little explanation other than it is "typical and endemic to the pawn shop industry."

22. Therefore, because Anderson does not meet the minimum qualifications of a bail bond agent, it is mandatory that the Director refuse to issue Anderson a bail bond agent license.

23. The Director has considered Anderson's history and all of the facts and circumstances

surrounding the Application, and for the reasons stated in this Petition refuses to issue Anderson a bail bond agent license.

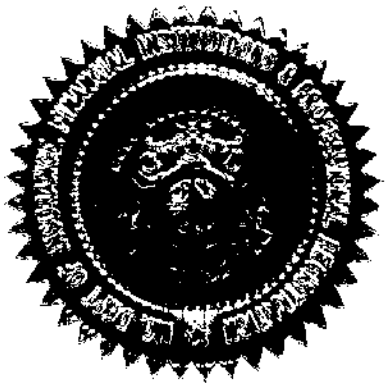
24. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that issuance of the bail bond agent license of Applicant John Brian Anderson is hereby REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 20th DAY OF DECEMBER 2010.



JOHN M. HUFF
DIRECTOR

NOTICE

TO: John Brian Anderson 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 21st day of December, 2010, a copy of the foregoing Order and Notice was served upon John Brian Anderson by certified mail No. 7004 1350 0003 1413 5386 to:

John Brian Anderson
1420 East Livingston
Springfield, Missouri 65803

Kathryn Randolph
Kathryn Randolph
Paralegal