State of Missouri

Department of Insurance, Financial Institutions & Professional Registration

IN RE:	)	
	)	
Eric E. Bacon,	)	Case No. 110411454C
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
4839 Greenburg Drive St. Charles, Missouri 65072; and	)	
	)	
P.O. Box 156 Cottleville, Missouri 63338	)	

ORDER REFUSING TO ISSUE BAIL BOND AGENT LICENSE

On June 28, 2011, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue Eric E. Bacon a bail bond agent license. After reviewing the Petition, the Investigative Report, and the entirety of the file, the Director issues the following findings of fact, conclusions of law, and summary order.

FACTUAL BACKGROUND

1. Eric E. Bacon ("Bacon") is a Missouri resident with a residential address of 4839 Greenburg Drive, St. Charles, Missouri 63304 and a mailing address of P.O. Box 156, Cottleville, Missouri 63338.

2. On or about December 6, 2010, the Department of Insurance, Financial Institutions, and Professional Registration ("Department") received Bacon's Missouri Uniform Application for Bail Bond or Surety Recovery License ("Application").

3. In Part III of the Application, under "Background Information," 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. Bacon answered "Yes" to Background Question B.

5. On November 21, 2002, the St. Charles County Circuit Court, found Bacon guilty beyond a reasonable doubt of possession of child pornography, a class A misdemeanor. The court suspended the imposition of sentence and placed Bacon on probation for a period of two years. *See State of Missouri v. Eric E. Bacon,* St. Charles County Circuit Court, Case No. 02CR126547.

6. On July 29, 2004, in St. Louis County Circuit Court, Bacon pleaded guilty to possession of child pornography, a class A misdemeanor, because he transported the pornography from St. Charles County to St. Louis County. The court suspended the imposition of sentence and placed Bacon on probation, which was to run concurrent with his sentence in the St. Charles County case. *See State of Missouri v. Eric E. Bacon*, St. Louis County Circuit Court, Case No. 03CR-931.

CONCLUSIONS OF LAW

7. Section 374.715.1, RSMo (Supp. 2010),[1] 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 a 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.

8. Section 374.750, 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

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

applicant of his right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

9. 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, 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[.]

10. 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:

* * *

(2) Any other crime of this state or the United States involving moral turpitude, whether or not a sentence was imposed[.]

11. At the time of the offenses, Section 573.037.1, RSMo (Supp 2001), provided:

A person commits the crime of possession of child pornography if,

knowing of its content and character, such person possess any obscene material that has a child as one of its participants or portrays what appears to be a child as an observer or participant of sexual conduct.

12. Possession of child pornography necessarily involves moral turpitude because it is an act of vileness and depravity that contributes to the exploitation of the children depicted in the pornography. *See Dept. of Health and Senior Services v. Inman*, No. 07-1552 DH (Mo. Admin. Hrg. Comm'n December 8, 2008) ("the criminal offense of possession of child pornography is a Category 1 crime involving moral turpitude").

13. 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. 2010).

14. The Director must refuse to issue a bail bond agent license to Bacon pursuant to § 374.715.1 because Bacon does not meet the minimum qualifications of a bail bond agent as he was found guilty and pleaded guilty to two crimes of moral turpitude within the past fifteen years. *See State of Missouri vs. Eric E. Bacon*, Case No. 02CR126547; *State of Missouri v. Eric E. Bacon,* Case No. 03CR-931. By being found guilty and entering guilty pleas to crimes of moral turpitude within the past fifteen years, Bacon fails to meet the 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. The Director has no discretion when a person does not meet the minimum qualifications of a bail bond agent, and therefore must refuse to issue Bacon a bail bond agent license. *See Joyce v. Director of Dep't Ins., Fin. Insts. & Prof'l Reg'n,* 07-1364 DI, (Mo. Admin. Hrg. Comm'n July 7, 2008). *See also* § 374.755.1(2).

15. The Director may refuse to issue a bail bond agent license to Bacon pursuant to § 374.755.1(6) because Bacon violated a provision of the laws of this state by possessing child pornography in Missouri in violation of § 573.037.1, RSMo (Supp. 2002). *See State of Missouri vs. Eric E. Bacon*, Case No. 02CR126547; *State of Missouri v. Eric E. Bacon,* Case No. 03CR-931.

16. The Director has considered Bacon's history and all of the facts and circumstances surrounding the Application, and for the reasons stated in this Order refuses to issue Bacon a bail bond agent license.

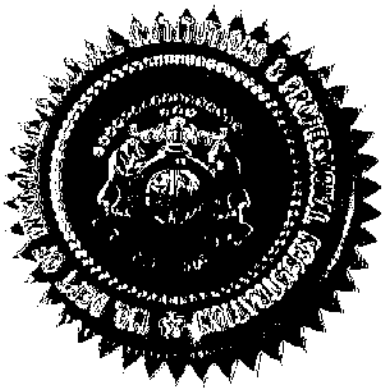
17. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the bail bond agent license of **Eric E. Bacon** is hereby summarily **REFUSED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 29TH DAY OF JUNE, 2011.

JOHN M. HUFF
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, P.O. Box 1557, Jefferson City, Missouri within 30 days after the mailing of this notice pursuant to § 621.120, RSMo. Under 1 CSR 15-3.290, unless you send your complaint by registered or certified mail, it will not be considered filed until the Administrative Hearing Commission receives it.

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of June, 2011, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail.

Eric E. Bacon
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St. Charles, Missouri 65072; and
7009 3410 0001 9349 2990

Eric E. Bacon
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Cottleville, Missouri 63338
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Kathryn Randolph

Kathryn Randolph, Paralegal