State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Bette A. DeVries,	)	**Case No. 10-01126132C**
	)	
Applicant.	)	
	)	
Serve At:	)	
6539 Shady Slope Circle	)	
Osage Beach, Missouri 65065	)	

REFUSAL TO ISSUE BAIL BOND AGENT LICENSE

On January 27, 2010, Tamara W. Kopp, Senior Enforcement Counsel and counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue a bail bond agent license to Bette A. DeVries. 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.

FINDINGS OF FACT

1. Bette A. DeVries ("DeVries") is a Missouri resident with an address of 6539 Shady Slope Circle, Osage Beach, Missouri 65065.

2. On or about June 22, 2009, the Department of Insurance, Financial Institutions, and Professional Registration ("Department") received DeVries' 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. DeVries answered "Yes" to Background Question B and disclosed three criminal matters.

5. On or about November 2, 2000, in Case # CR-02-000-05077M, in the Circuit

Court of Camden County, Missouri, DeVries was charged with the class A misdemeanor of Endangering the Welfare of a Child in the Second Degree in violation of § 568.050, RSMo.

6. A person commits the crime of Endangering the Welfare of a Child in the Second Degree, in violation of § 568.050, RSMo, if:

> He or she with criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen years old; or

7. The prosecuting attorney for Camden County, Missouri alleged, through an Information filing, that DeVries acted with criminal negligence in a manner that created a substantial risk to the body and health of a child less than 17 years old, by encouraging the child to dress in sexually seductive clothing in the presence of a seventeen year old male, by encouraging and assisting the 17 year old male in binding the child's hands and feet, by removing and rearranging the child's clothing in such a way as to expose the child's breasts in the presence of the 17 year old male, by encouraging and aiding the 17 year old male in rubbing a liquid substance on the child's breasts with his hands, by inviting the 17 year old male into the home and allowing him to stay in the home resulting in the 17 year old male having non-consensual sexual intercourse with the child. DeVries disclosed to the Department that the child involved was her 15 year old daughter. DeVries entered an Alford[1] plea, the court found her guilty, suspended the imposition of sentence, and placed her on supervised probation for two years.

8. On or about November 6, 1986, in Case No. CR286-1759FX, in the Circuit Court of Camden County, Missouri, DeVries, then known as Bette Williams or Betty A. Williams, was charged with the class C felony of assault in the second degree in violation of § 565.060, RSMo.

9. A person commits the crime of assault in the second degree, in violation of § 565.060, RSMo, if the person recklessly causes physical injury to another person.

10. The prosecuting attorney for Camden County, Missouri, alleged, through an Information filing, that DeVries, then known as Bette Williams or Betty A. Williams, recklessly caused serious physical injury to Larry Williams by stabbing him in the chest with a knife. DeVries pled guilty to the crime of assault in the second degree, the court accepted her guilty plea, suspended the imposition of sentence, and placed DeVries on probation for five years. DeVries was released from probation on or about July 3, 1990.

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[1] An Alford plea is not an admission of guilt, but is a type of guilty plea for the purpose of statutes that allow discipline for guilty pleas. *Watkins v. State Bd. of Reg'n for the Healing Arts*, 651 S.W.2d 582, 583-84 (Mo. App., W.D. 1983).

11. DeVries also disclosed that in 1981 or 1982 in Camden County, Missouri, she "failed to pay a fine and cost for a NSF check. A warrant was issued. [She] paid the fine and cost and the warrant was withdrawn." The Circuit Court of Camden County, Missouri was unable to locate any court records to verify or refute DeVries' disclosure.

CONCLUSIONS OF LAW

12. Section 374.715.1, RSMo (Supp. 2008), 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.

13. 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.

14. Section 374.755, RSMo (Supp. 2008), 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:
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(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[.]

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:
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> (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 crime involving moral turpitude is a crime involving "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. banc 1985).

17. In *Brehe v. Mo. Dept. of Elementary & Secondary Education*, which involved an attempt to discipline a teacher's certificate under § 168.071, RSMo, for committing a crime involving moral turpitude, the court referred to three categories of crimes, the categories drawn from 21 Am.Jur.2d. Criminal Law § 22 (1998):

> (1) crimes that necessarily involve moral turpitude (referred to in *Brehe* as "category 1" crimes);
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> (2) crimes "so obviously petty that conviction carries no suggestion of moral turpitude" ("category 2" crimes); and
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> (3) crimes that "may be saturated with moral turpitude," yet do not involve it necessarily ("category 3" crimes).

See *Brehe v. Mo. Dept. of Elementary & Secondary Education*, 213 S.W.3d 720, 725 (Mo. App. 2007).

18. Category 1 crimes, since they necessarily involve moral turpitude, require no analysis beyond their elements to show moral turpitude; category 3 crimes require some examination of the facts supporting the conviction in order to determine whether they involve moral turpitude. See *Brehe* at 725-727; See also *Joyce v. Dir. of Dept. of Ins.*, Mo.Admin. 07-1364 DI, 2008 WL 4182673 (Mo.Admin.Hrg.Commn.).

19. The principal purpose of § 375.141, RSMo (Supp. 2008), is not to punish licensees or applicants, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984).

20. The Director may refuse to issue a bail bond agent license to DeVries pursuant to § 374.755.1(2), RSMo (Supp. 2008), because DeVries entered an Alford plea to the crime of Endangering the Welfare of a Child in the Second Degree, a category 3 crime of moral turpitude based on the circumstances of her crime. While Endangering the Welfare of a Child in the Second Degree doesn't necessarily involve moral turpitude, the circumstances of DeVries' crime evidence moral turpitude. DeVries' conduct showed disrespect for the laws and children, including her own daughter. DeVries' conduct demonstrated the baseness, vileness, and depravity in the private and social duties society expects of a person and a parent. Because DeVries entered an Alford plea to a crime of moral turpitude within the past 15 years, she does not 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, RSMo (Supp. 2008), which requires, in part, that an applicant meet the qualifications for surety on bail bonds as provided by Supreme Court Rule. Therefore, because DeVries does not meet the minimum qualifications of a bail bond agent, the Director has no discretion and must refuse to issue DeVries a bail bond agent license. See *Joyce v. Dir. of Dept. of Ins.*, Mo.Admin. 07-1364 DI, 2008 WL 4182673 (Mo.Admin.Hrg.Commn.).

21. The Director may refuse to issue a bail bond agent license to DeVries pursuant to § 374.755.1(6), RSMo (Supp. 2008), because DeVries violated a provision of the laws of this state by committing the crimes of Endangering the Welfare of a Child in the Second Degree and assault in the second degree.

22. The Director has considered DeVries' history and all of the facts and circumstances surrounding the Application. Granting DeVries a bail bond agent license would not be in the interest of the public.

23. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the bail bond agent license application of **Bette A. DeVries** is hereby summarily **REFUSED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 28TH **DAY OF** JANUARY **, 2010.**

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 29th day of January, 2010, a copy/duplicate original of the foregoing Order and Notice was served upon the Applicant in this matter by certified/priority mail No. 7007 3020 0003 1572 4353.

Bette A. DeVries
6539 Shady Slope Circle
Osage Beach, Missouri 65065

Kim Landers