State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
JAMES AUTRY SHEATS, Jr.,	)	**Case No. 160330198C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE BAIL BOND AGENT LICENSE

On June 21, 2016, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a bail bond agent license to James Autry Sheats, Jr. After reviewing the Petition, Investigative Report, and the entirety of the file, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. James Autry Sheats, Jr. ("Sheats") is a Missouri individual with a residential address of 1924 Highway KK, Osage Beach, Missouri 65065 and a mailing address of 4655 Osage Beach Parkway, Osage Beach, Missouri 65065.

2. On May 24, 1993, Sheats pled guilty to Forgery, a Class C Felony, in violation of § 570.090.1(4);[1] the court suspended imposition of sentence and ordered Sheats to complete five years' probation. *State v. James A. Sheats, Jr.*, Miller Co. Cir. Ct., Case No. CR692-456FX.

3. On June 29, 2000, Sheats pled guilty to, and was convicted of, Operating a Vehicle on a Highway Without a License, a Class C Misdemeanor, in violation of § 302.020; the court ordered Sheats to pay a $150.00 fine. *State v. James Autry Sheats*, Boone Co. Cir. Ct., Case No. 13R010069190.

4. On May 30, 2006, the Department of Insurance, Financial Institutions and Professional Registration ("Department") issued Sheats bail bond agent license number 0371648, which expired on May 30, 2008, but was subsequently renewed and most recently expired on May 30, 2010.

[1] All criminal statutory references are to those contained in the version of the Revised Statutes of Missouri pursuant to which each judgment was rendered.

5. On July 7, 2008, the Department received from Sheats a Missouri Uniform Renewal Application for Bail Bond or Surety Recovery License ("2008 Renewal Application").

6. Sheats answered "No" to a background question of the 2008 Renewal Application which asked, in relevant part:

> 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).

7. Part IV of the 2008 Renewal Application was an attestation which Sheats accepted by his signature dated June 30, 2008 and read: "This applicant first being duly sworn upon his/her oath, states that the statements contained in the above and foregoing application are true to the best of his/her knowledge and belief."

8. On August 20, 2008, the Acting Director of the Department issued an order finding that Sheats's bail bond agent license was subject to discipline pursuant to § 374.755.1(3) RSMo (Cum. Supp. 2007) for Sheats's use of fraud, deception, misrepresentation, or bribery in securing the renewal of his license by failing to disclose to the Department his prosecution in *State v. James Autry Sheats*, Boone Co. Cir. Ct., Case No. 13R010069190 on his 2008 Renewal Application. Voluntary Forfeiture, *In re James A. Sheats*, DIFP Case No. 08A000555.

9. On December 16, 2008, the Acting Director of the Department issued an order finding that Sheats violated §§ 374.702 and 374.716 RSMo (Cum. Supp. 2007) by engaging in unlicensed bonding business and failing to report and remit money collected to his general bail bond agent.[2] Voluntary Forfeiture, *In re James Sheats*, DIFP Case No. 08A000835.

10. On February 11, 2010, Sheats pled guilty to Driving While Intoxicated - Alcohol, a Class B Misdemeanor, in violation of § 577.010; the court suspended imposition of sentence and ordered Sheats to complete two years' probation. *State v. James A. Sheats, Jr.*, Montgomery Co. Cir. Ct., Case No. 09AA-CR00610.

11. On or about May 26, 2010, Sheats pled guilty to Driving Without a Valid License, a Class A Misdemeanor, in violation of § 302.020; the court suspended imposition of sentence and ordered Sheats to complete two years' probation. *State v. James Autry Sheats, Jr.*, Camden Co. Cir. Ct., Case No. 10CM-CR00193.

---

[2] Sheats's license was expired for a period during 2008.

12. Also on or about May 26, 2010, Sheats pled guilty to Assault in the Third Degree, a Class A Misdemeanor, in violation of § 565.070 ("Assault"); the court suspended imposition of sentence and ordered Sheats to complete two years' probation. *State v. James A. Sheats, Jr.*, Camden Co. Cir. Ct., Case No. 09CM-CR02048.

13. Sheats's Assault was charged, in relevant part, as follows:

> Sheats struck [victim] in the face with a closed fist, knocking [him] to the ground. [Victim] stated that he believed he lost consciousness, as the next thing he remembered was looking up and seeing a group of people standing over him. ... [Onlookers] drove him to Lake Regional Emergency Room for treatment. [Victim]'s injuries consisted of a severely broken nose. [He] was referred to a plastic surgeon for possible reconstructive surgery.

Probable Cause Statement, *Id.*

14. On or about June 2, 2010, the Department mailed Sheats a letter informing him that his bail bond agent license had expired.

15. On November 19, 2010, the Department received from Sheats a Uniform Application for Bail Bond or Surety Recovery License ("2010 Application").

16. Within the "Employment Record" portion of the 2010 Application, Sheats wrote that he was employed from "05/06" to "present" at "Whittle Bonding" as a "Bail Bond Agent[.]"

17. The attestation on the 2010 Application, which Sheats accepted by his signature dated August 24, 2010, provided:

> I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.

18. On August 10, 2011, the Director refused Sheats's 2010 Application. *See* Order Refusing to Issue Bail Bond Agent License, *In re James A. Sheats, Jr.*, DIFP Case No. 11-0411452C ("Refusal Order"). The Director found, *inter alia*:

    a. that Sheats was not qualified for a bail bond agent license pursuant to Mo.S.Ct.R. 33.17, *id.* at ¶ 14;

    b. that Sheats was not qualified for a bail bond agent license pursuant to § 374.715.1 RSMo (Supp. 2010), *id.* at ¶ 17;

c. that Sheats could be denied a bail bond agent license pursuant to § 374.755.1(2) RSMo (Supp. 2010), *id.* at ¶ 13;

d. that Sheats could be denied a bail bond agent license pursuant to § 374.755.1(3) RSMo (Supp. 2010), *id.* at ¶ 15; and

e. that Sheats could be denied a bail bond agent license pursuant to § 374.755.1(6) RSMo (Supp. 2010), *id.* at ¶ 16.

19. Sheats appealed the Refusal Order to the Missouri Administrative Hearing Commission on September 22, 2011, but his case was dismissed. *Sheats v. Director, Dep't of Ins., Fin. Insts. & Prof'l Regis'n*, Mo. Admin. Hrg. Comm'n Case No. 11-1926 DI (Nov. 17, 2011).

20. On November 5, 2015, the Department received from Sheats a Uniform Application for Bail Bond or Surety Recovery License ("2015 Application").

21. Within the "Employment Record" portion of the 2015 Application, Sheats wrote that he was employed from "5-06" to "Sep, 10" at "Whittle Bonding" as a "Bondsman[.]"

22. The attestation on the 2015 Application, which Sheats accepted by his signature dated October 20, 2015, provided:

> I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.

CONCLUSIONS OF LAW

23. Section 374.702.1 RSMo (Cum. Supp. 2007) provides:

> No person shall engage in the bail bond business as a bail bond agent or a general bail bond agent without being licensed as provided in sections 374.695 to 374.775.

24. Section 374.715 RSMo (Supp. 2013)[3] provides, in relevant part:

> 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

[3] All civil statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2013 RSMo Supplement, unless otherwise noted.

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.

25. Section 374.750 provides, in relevant part:

> The department may refuse to issue or renew any license required pursuant to sections 374.700 to 374.775[4] for any one or any combination of causes stated in section 374.755.

26. In turn, § 374.755.1 provides, in relevant part:

> 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:
>
> * * *
>
> (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;
>
> (3) Use of fraud, deception, misrepresentation or bribery in securing any license or in obtaining permission to take any examination required pursuant to sections 374.695 to 374.775;
>
> * * *
>
> (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; [or]
>
> (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[.]

[4] Within Missouri's Professional Bail Bondsman and Surety Recovery Agent Licensure Act. *See* § 374.695.

27. Missouri Supreme Court Rule 33.17 provides, in relevant 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 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[.]

28. "The circumstances surrounding an assault related crime may establish an offense involving moral turpitude." *In re Frick*, 694 S.W.2d 473, 478 (Mo. banc 1985) (internal citations omitted). *Accord*, *Brehe v. Missouri Dep't of Elementary & Secondary Educ.*, 213 S.W.3d 720 (Mo. App. W.D. 2007).

29. "A plea of guilty voluntarily and understandingly made ... admits all of the facts charged[.]" *Robinson v. State*, 491 S.W.2d 314, 315 (Mo. banc 1973).

30. By pleading guilty to Assault, a crime involving moral turpitude, within the last fifteen years, Sheats is disqualified for bail bond agent licensure because he fails to meet the qualifications for sureties as set forth in Mo.S.Ct.R. 33.17(c). *State v. James A. Sheats, Jr.*, Camden Co. Cir. Ct., Case No. 09CM-CR02048. 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 Sheats a bail bond agent license. *See Joyce v. Director, Dep't of Ins., Fin. Insts. & Prof'l Regis'n*, Mo. Admin. Hrg. Comm'n Case No. 07-1364 DI (July 7, 2008).

31. The Director may refuse to issue Sheats a bail bond agent license pursuant to § 374.755.1(2) because he pled guilty within the past fifteen years in a criminal prosecution under state law for a crime involving moral turpitude, specifically Assault. *State v. James A. Sheats, Jr.*, Camden Co. Cir. Ct., Case No. 09CM-CR02048.

32. The Director may refuse to issue Sheats a bail bond agent license pursuant to § 374.755.1(3) because he used fraud, deception, or misrepresentation securing a bail bond agent license by failing to disclose his 1993 guilty plea in *State v. James A. Sheats, Jr.*, Miller Co. Cir. Ct., Case No. CR692-456FX, on his 2008 Renewal Application.

33. The Director may refuse to issue Sheats a bail bond agent license pursuant to § 374.755.1(3) because he used fraud, deception, or misrepresentation in attempting to secure a bail bond agent license by failing to disclose his 1993 guilty plea in *State v. James A. Sheats, Jr.*, Miller Co. Cir. Ct., Case No. CR692-456FX, on his 2010 Application. *See* Order Refusing to Issue Bail Bond Agent License, ¶ 15, *In re James A. Sheats, Jr.*, DIFP Case No. 11-0411452C.

34. The Director may refuse to issue Sheats a bail bond agent license pursuant to § 374.755.1(5) because he exhibited incompetency or misconduct in the performance of the functions or duties of a bail bond agent by holding himself out as, and engaging in the business of, a "Bail Bond Agent" or "Bondsman" for portions of 2010 after his license had expired, as admitted on his 2010 Application and 2015 Application, and notwithstanding that he had paid a fine for similar unlawful conduct two years prior. *See* Voluntary Forfeiture, *In re James Sheats*, DIFP Case No. 08A000835.

35. The Director may refuse to issue Sheats a bail bond agent license pursuant to § 374.755.1(6) because he violated a law of this state, specifically § 374.702.1 RSMo (Cum. Supp. 2007), by holding himself out as, and engaging in the business of, a "Bail Bond Agent" or "Bondsman" for portions of 2010 after his license had expired, as admitted on his 2010 Application and 2015 Application, and notwithstanding that he had paid a fine for similar unlawful conduct two years prior. *See id.*

36. The Director may refuse to issue Sheats a bail bond agent license pursuant to § 374.755.1(6) because he violated a law of this state, specifically § 570.090.1(4). *State v. James A. Sheats, Jr.*, Miller Co. Cir. Ct., Case No. CR692-456FX.

37. The Director may refuse to issue Sheats a bail bond agent license pursuant to § 374.755.1(6) because he violated a law of this state, specifically § 302.020. *State v. James Autry Sheats*, Boone Co. Cir. Ct., Case No. 13R010069190; *State v. James Autry Sheats, Jr.*, Camden Co. Cir. Ct., Case No. 10CM-CR00193.

38. The Director may refuse to issue Sheats a bail bond agent license pursuant to § 374.755.1(6) because he violated a law of this state, specifically § 577.010. *State v. James A. Sheats, Jr.*, Montgomery Co. Cir. Ct., Case No. 09AA-CR00610.

39. The Director may refuse to issue Sheats a bail bond agent license pursuant to § 374.755.1(6) because he violated a law of this state, specifically § 565.070. *State v. James A. Sheats, Jr.*, Camden Co. Cir. Ct., Case No. 09CM-CR02048.

40. Each time Sheats violated a law of this state constitutes a separate and sufficient cause for the Director to refuse to issue Sheats a bail bond agent license pursuant to § 374.755.1(6).

41. The Director has considered Sheats's history and all of the circumstances surrounding Sheats's 2015 Application, including the infirmities of his 2010 Application. Letters of recommendation submitted with Sheats's 2015 Application commend his honesty generally, but – in light of the foregoing – are unpersuasive as to Sheats's character or qualification for licensure as a bail bond agent. Issuing Sheats a bail bond agent license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue Sheats a bail bond agent license. Furthermore, pursuant to Mo.S.Ct.R. 33.17(c), Sheats is disqualified for a bail bond agent license, and the Director has no discretion and must refuse to issue Sheats a bail bond agent license.

42. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the bail bond agent license application of **James Autry Sheats, Jr.** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 23rd **DAY OF** June, **2016.**

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

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 of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 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.

[The remainder of this page intentionally left blank]

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of June, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required service, at the following address:

James Autry Sheats, Jr.
1924 Highway KK
Osage Beach, Missouri 65065-9809

No. 1Z0R15W84299832457

Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-6515
Facsimile: (573) 526-5492
Email: Kathryn.Latimer@insurance.mo.gov