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

IN THE MATTER OF:	)	
	)	
Daniel L. Kimmel,	)	Case No. 10-0723531C
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
20234 Dell Drive	)	
Rocky Mount, Missouri 65072	)	

ORDER REFUSING TO ISSUE BAIL BOND AGENT LICENSE

On November 30, 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 renew Daniel L. Kimmel's 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. Daniel L. Kimmel ("Kimmel") is a Missouri resident with a residential and mailing address of 20234 Dell Drive, Rocky Mount, Missouri 65072.

2. On or about May 14, 2010, the Department of Insurance, Financial Institutions, and Professional Registration ("Department") received Kimmel's Missouri Uniform Application for Bail Bond or Surety Recovery License ("Application").

3. On the Application, in Part III - "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. Kimmel answered "Yes" to Background Question B and submitted a letter indicating he had been twice convicted of first degree armed robbery in the early 1970s – once in Jackson County, Missouri and once in Johnson County, Kansas. Kimmel also indicated an incident in Orange County, California where he received stolen property in 1986. Finally, Kimmel disclosed three misdemeanor bad check incidents in 1998, one misdemeanor bad check incident in 2000, and a misdemeanor disturbing the peace incident in 2009. In his letter, Kimmel stated, "I WAS RELEASED FROM PRISON 35 YEAR [sic] AGO AND I HAVE BEEN VIRTUALLY LAW ABIDING."

5. In an undated letter received by the Department on June 11, 2010, Kimmel offered further explanation of his criminal history. He stated, in part:

> IN REGARDS TO THE ARMED ROBBERY CONVICTIONS IN 1972, I SUBMIT THE FOLLOWING. I THINK BOTH ROBBERIES WERE COMMIITED (sic) ON THE SAME DAY. A SHOE STORE IN MISSOURI AND A MOTEL IN KANSAS.
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> * * *
>
> THE RECEIVING STOLEN PROPERTY IN CALIFORNIA CHARGE WAS A MISDEMEANOR. I HAD BOUGHT SOME TOOLS FROM AN EMPLOYEE OF A RENTAL YARD THAT HE SAID THEY WERE SELLING. WHEN THE POLICE SHOWED UP AT MY HOUSE AND TOLD ME THE TOOLS WERE STOLEN, I HAD TWO CHOICES, INVOLVE A FAMILY MEMBER OR GO TO JAIL. I CHOSE THE LATTER AND GOT A SENTENCE OF 30 DAYS[.]
>
> * * *
>
> THE RECENT DISTURBING THE PEACE CHARGE IN MORGAN COUNTY INVOLVED MY TRUCK BLOCKING A PRIVATE ROAD. A NEIGHBOR HAD SPRAYED MY DAUGHTER IN THE FACE WITH BEAR SPRAY. SHE GOT A RESTRAINING ORDER AGAINST HIM AND HE DEFIED THAT ORDER. I PULLED MY TRUCK ACROSS THE ROAD TO KEEP HIM FROM LEAVING HER ROAD UNTIL THE SHERIFFS DEPARTMENT COULD ARRIVE TO ARREST

HIM. UNFORTUNATELY, THE DEPUTY CHOSE TO ARREST US BOTH SO I PLED GUILTY TO DISTURBING THE PEACE BECAUSE IT WOULD HAVE STO TOO MUCH MONEY TO FIGHT.

6. Kimmel submitted four letters that generally proclaimed him to be of good character, including that Kimmel is "dependable, hard-working, honest, and very involved in the community", "a positive influence on others heading down the wrong path", "forthright and reliable", and "personable".

7. Official records support the following:

   a. On February 15, 1972, Kimmel was arrested for First Degree Robbery, a class A felony, in Kansas City, Missouri. On January 11, 1973, Kimmel was found guilty by the Jackson County, Missouri Circuit Court and sentenced to five years imprisonment.
   b. On February 19, 1974, in the District Court of Johnson County Kansas, Kimmel pleaded guilty to the class D felony of theft of property of more than $50 in violation of K.S.A. 21-3701. Kimmel admitted to taking U.S. currency from Robinson's Shoe Rack and the Gateway Toy Store while armed with a pistol. The court sentenced Kimmel to one to ten years incarceration to run concurrently with the sentence Kimmel was currently serving in the Missouri State Penitentiary in Jefferson City, Missouri. *See State of Kansas vs. Daniel L. Kimmel*, Case No. 8139.
   c. On September 18, 1987, Kimmel was arrested for receiving stolen property in Santa Ana, California.
   d. On February 4, 1998, Kimmel was charged with passing a bad check over $150 in Camden County, Missouri. Kimmel entered a plea of guilty on April 1, 1998, paid a fine, and completed probation on April 1, 2000. *See State of Missouri vs. Daniel L. Kimmel*, Case No. CR02-98-00318F.
   e. On May 12, 2005, Kimmel was charged by Information by the Camden County, Missouri prosecuting attorney with one count of the class C misdemeanor of following too close in violation of § 304.017, RSMo. On July 7, 2005, Kimmel pleaded guilty to following too close in violation of § 304.017, RSMo. Kimmel's sentence was suspended and he was ordered to pay court costs complete one year probation. *See State of Missouri vs. Daniel Leroy Kimmel*, Circuit Court of Camden County, Missouri, Case No. CR205-923M.
   f. On April 23, 2009, Kimmel was ticketed for a peace disturbance for

"unreasonably obstructing Dell Drive w/a vehicle blocking free ingress/egress from roadway" in violation of § 574.010, RSMo. Kimmel pleaded guilty on June 19, 2009, and the court ordered that he pay a fine and costs. *See State of Missouri vs. Daniel Leroy Kimmel*, Circuit Court of Morgan County, Missouri, Case No. 09M6-CR00286.

CONCLUSIONS OF LAW

8. 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 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.

9. 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.

10. 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[.]

11. 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;

12. Section 560.120, RSMo (1969), provides:

Every person who shall be convicted of feloniously taking the property of another from his person, or in his presence, and against his will, by violence to his person, or by putting him in fear of some immediate injury to his person; or who shall be convicted of feloniously taking the property of another from the person of his wife, servant, clerk or agent, in charge thereof, and against the will of such wife, servant, clerk or agent by violence

to the person of such wife, servant, clerk or agent, or by putting him or her in fear of some immediate injury to his or her person, shall be adjudged guilty of robbery in the first degree.

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 Kimmel pursuant to § 374.715.1, RSMo (Supp. 2009), because Kimmel fails to meet the minimum qualifications of a bail bond agent in that Kimmel has pleaded guilty to a crime of moral turpitude within the past fifteen years. *See State of Missouri vs. Daniel L. Kimmel*, Case No. CR02-98-00318F. Writing a bad check necessarily involves moral turpitude because it involves the purpose to defraud or to take what belongs to another without consent. *See Louis A. Gillotti v. Missouri Real Estate Comm'n*, No. 07-0860 RE (Mo. Admin. Hrg. Comm'n February 1, 2008). Because Kimmel entered a guilty plea to a crime of moral turpitude within the past fifteen years, he 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. 2009), which requires, in part, that an applicant meet the qualifications for surety on bail bonds as provided by Supreme Court Rule. Therefore, because Kimmel does not meet the minimum qualifications of a bail bond agent, the Director has no discretion and must refuse to issue Kimmel a bail bond agent license. *See Joyce v. Director of Dep't Ins., Fin. Inst. & Prof'l Reg'n,* 07-1364 DI, (Mo. Admin. Hrg. Comm'n July 7, 2008). *See also* § 374.755.1(2), RSMo (Supp. 2009).

15. The Director must refuse to issue a bail bond agent license to Kimmel pursuant to § 374.715.1, RSMo (Supp. 2009), because Kimmel fails to meet the minimum qualifications of a bail bond agent in that Kimmel failed to demonstrate that he possesses the requisite good moral character. Though Kimmel has acknowledged guilt for his crimes, their numerosity over the last thirty years suggests he has not demonstrated rehabilitation nor embraced a new moral code. *See Francois v. State Bd. of Regis'n for the Healing Arts,* 880 S.W.2d 601, 603 (Mo. App. 1994). In the years following his two felony convictions for first degree robbery in the 1970s, Kimmel was convicted of receiving stolen property in 1986, for which he served time in jail. Then, according to Kimmel, in 1998, he was convicted of three

misdemeanor bad checks. Kimmel wrote another bad check in 2000. Kimmel violated the driving laws in 2005. Just last year, Kimmel again used his vehicle to violate the law and attempted to take the law into his own hands. Kimmel said he did so to "keep [a man] from leaving" and ultimately pleaded guilty to misdemeanor disturbing the peace. Kimmel has admitted to multiple violations of Missouri, Kansas and California laws. Bail bond agents must at all times comply with the laws under § 374.755.1(6), RSMo (Supp. 2009). Kimmel's claim of being "virtually law abiding" is insufficient.

16. "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 Kimmel a bail bond agent license is not in the interest of the public where Kimmel admits that he has not always complied with the law after his release from prison for two felonies of first degree robbery: "I have been virtually law abiding." By failing to comply at all times with Missouri's and other states' laws, especially in recent years, Kimmel's history does not demonstrate good moral character. Even though Kimmel has provided various character references, the nature and numerosity of his crimes are such that granting him a bail bond agent license may endanger the public.

17. The Director may refuse to issue a bail bond agent license to Kimmel pursuant to § 374.755.1(6), RSMo (Supp. 2009), because Kimmel violated a provision of the laws of this state by committing armed robbery in Missouri in violation of § 560.120, RSMo (1969). *See State of Kansas vs. Daniel L. Kimmel*, Case No. 8139.

18. The Director may refuse to issue a bail bond agent license to Kimmel pursuant to § 374.755.1(6), RSMo (Supp. 2009), because Kimmel violated a provision of the laws of this state by disturbing the peace in violation of § 574.010, RSMo (2000). *See State of Missouri vs. Daniel Leroy Kimmel*, Circuit Court of Morgan County, Missouri, Case No. 09M6-CR00286.

19. Bail bond agents regularly handle client funds and must be able to do so in a responsible manner. Kimmel's four bad check incidents and armed robbery convictions suggest he may have difficulty managing money.

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

21. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the bail bond agent license of **Daniel L. Kimmel** is hereby summarily **REFUSED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 21st DAY OF December, 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 21st day of December, 2010, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified/priority mail No. 7004 1350 0003 1413 5379.

Daniel L. Kimmel
20234 Dell Drive
Rocky Mount, Missouri 65072

Kathryn Randolph