State of Missouri

Department of Insurance, Financial Institutions & Professional Registration

IN RE:	)	
	)	
Oliver W. Hammond,	)	**Case No. 12-1219667C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE BAIL BOND AGENT LICENSE

On January 4, 2013, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a bail bond agent license to Oliver W. Hammond. 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 order.

FINDINGS OF FACT

1. Oliver W. Hammond ("Hammond") is a Missouri resident whose residential and mailing address of record is 704 S. Pine, Holden, Missouri 64040.

2. On or about September 18, 2012, the Department of Insurance, Financial Institutions, and Professional Registration ("Department") received Hammond's Missouri Uniform Application for Bail Bond or Surety Recovery License ("Application").

3. In Part III of the Application, with a heading of "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. Hammond answered "Yes" to Background Question B.

5. On June 7, 2006, the Circuit Court of Cass County found Hammond guilty beyond a reasonable doubt of Possession Of Controlled Substance Except 35 Grams Or Less Of Marijuana, in violation of § 195.202 RSMo (2000), and Possession of Chemical With Intent to Create a Controlled Substance, in violation of § 195.420 RSMo (2000), both Class C Felonies. The court suspended the imposition of sentence on both counts and placed Hammond on probation for a period of five years and ordered him to serve 30 days "shock time" in the Cass County Jail. *State of Missouri v. Oliver W. Hammond,*

Cass Co. Cir. Ct., Case No. 17R030500296.

6. On October 1, 2007, Hammond admitted to violating his probation by using meth and traveling outside the state without permission. On October 15, 2007, the court continued Hammond's probation, but ordered him to serve 120 days in the Missouri Department of Corrections Post-Conviction Treatment Program pursuant to § 217.785, RSMo (2000). *State of Missouri v. Oliver W. Hammond*, Cass Co. Cir. Ct., Case No. 17R030500296.

CONCLUSIONS OF LAW

7. Section 374.715.1, RSMo (Supp. 2011),[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 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.

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 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:
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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

[1] All statutory references are to the Revised Statutes of Missouri (Supp. 2011) unless otherwise noted.

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:

(1) Any felony of this state or the United States; or

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

11. The Director must refuse to issue a bail bond agent license to Hammond pursuant to § 374.715.1 because Hammond does not meet the minimum qualifications of a bail bond agent as he was found guilty of two felonies and crimes of moral turpitude within the past fifteen years. *State of Missouri v. Oliver W. Hammond*, Cass Co. Cir. Ct., Case No. 17R030500296; *In re Shunk*, 847 S.W.2d 789, 791 (Mo. banc 1993) ("[A] felony conviction for possession of narcotics is a crime of moral turpitude[.]"). By being found guilty of two felonies and crimes of moral turpitude within the past fifteen years, Hammond 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, which requires, in part, that an applicant meet the qualifications for surety on bail bonds as provided by Supreme Court Rule. 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 Hammond 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).

12. The Director may refuse to issue a bail bond agent license to Hammond pursuant to §§ 374.755.1(2) and 374.750 because Hammond has been finally adjudicated as guilty of two felonies and crimes of moral turpitude within the past fifteen years. *State of Missouri v. Oliver W. Hammond*, Cass Co. Cir. Ct., Case No. 17R030500296.

13. The Director may refuse to issue a bail bond agent license to Hammond pursuant to §§

374.755.1(6) and 374.750 because Hammond violated the laws of this state by possessing a controlled substance, in violation of § 195.202, and by possessing a chemical with the intent to create a controlled substance, in violation of § 195.420. *State of Missouri v. Oliver W. Hammond*, Cass Co. Cir. Ct., Case No. 17R030500296.

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

15. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the bail bond agent license of **Oliver W. Hammond** is hereby **REFUSED.**

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 7th **DAY OF** January, **2013.**

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 January, 2013, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified and U.S. mail No. 7009 3410 0001 9255 6235.

Oliver W. Hammond
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