



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

Shawn S. Butler,

Applicant.

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Case No. 13-1009557C

ORDER REFUSING TO ISSUE BAIL BOND AGENT LICENSE

On January 21, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue Shawn S. Butler'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 order.

FINDINGS OF FACT

1. Shawn S. Butler ("Butler") is an individual residing in Missouri at 241 NW Whitlock Drive, Lee's Summit, Missouri, 64081.
2. The Department of Insurance, Financial Institutions and Professional Registration ("Department") first issued Butler a bail bond agent license on October 29, 2010. That license expired on October 29, 2012.
3. On or about March 12, 2013, the Department received a Uniform Renewal Application for Bail Bond or Surety Recovery License submitted by Butler ("Application").
4. On the Application, in Part III - "Background Information," Question A asks:

Have you, within the past three (3) years, 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).
5. Butler answered "Yes" to Background Question A and submitted a letter dated March 6, 2013 stating that he was charged and pled guilty to Possession of a Controlled Substance in 2011 and received four years' probation with a suspended imposition of sentence.
6. Butler also explained in his letter that as of the date of his Application, he faced pending

charges in Illinois for trafficking and conspiracy. Butler stated that no court dates were pending and that he "will notify [the Department] of any court dates or changes in the case." Butler further explained that "[t]here was no evidence of me having anything to do with these charges."

7. On January 2, 2013, General Bail Bondsman Tyler Twiford submitted two Qualification Packets to the Platte County Circuit Court that contained two affidavits signed by Butler representing to the court that he was qualified and licensed as a bail bond agent. Butler signed the affidavits under oath before a notary public on November 1, 2012 and January 1, 2013, after his bail bond license had expired on October 29, 2012.

8. Official court records support the following:

- a. On August 30, 2010, the Jackson County prosecutor charged Butler with Possession of a Controlled Substance, a Class C Felony. Butler pled guilty to the charge on January 14, 2013. The court suspended the imposition of sentence and placed Butler on probation for four years. *State of Missouri v. Shawn S. Butler*, Jackson Co. Cir. Ct., Case No. 1116-CR05374-01.
- b. On July 24, 2013, Butler pled guilty to and was convicted of Unlawful Calculated Criminal Cannabis Conspiracy, a Class 3 Felony. The court ordered Butler to serve 30 months of probation with conditions. *State of Illinois v. Shawn S. Butler*, Circuit Court of the Seventh Judicial Circuit, Case No. 11-CF-29.
- c. Despite his statement with this Application that he would notify the Department of any court dates or changes regarding the Illinois criminal proceeding, Butler failed to do so.
- d. Despite his profession in his March 6, 2013 letter that he had nothing "to do with" the Illinois charges, Butler **pled guilty to Unlawful Criminal Cannabis Conspiracy**.

CONCLUSIONS OF LAW

9. Section 374.715.1 RSMo (Supp. 2013),¹ 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 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

¹ All statutory references are to the Revised Statutes of Missouri (Supp. 2013) unless otherwise noted.

provided by Supreme Court rule.

10. Section 374.755.1 provides in relevant part:

1. 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 insurance of license date;

* * *

(6) 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[.]

11. Section 374.750 provides:

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.

12. 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;

13. "Courts invariably find moral turpitude in the violation of narcotic laws." *In re Frick*, 694 S.W.2d 473, 479 (Mo. banc 1985). Specifically, the Missouri Supreme Court has held that a felony conviction for possession of narcotics is a crime involving moral turpitude. *In re Shunk*, 847 S.W.2d 789, 91-92 (Mo. banc. 1993).

14. "A guilty plea is evidence of the conduct charged and supports a finding in a professional licensing proceeding that the licensee is guilty of such conduct." *Missouri Real Estate Comm'n v. Howell*, No. 07-1388 RE (Mo. Admin. Hrg. Comm'n, April 22, 2008). A plea of guilty to a criminal charge is admissible as an admission against penal interest in any subsequent proceeding against the one who made it, for it is a solemn confession of the truth of the charge, though it is not conclusive and may be explained. *Pruett v. Wilform*, 477 S.W.2d 76, 80 (Mo. 1972).

15. "Good moral character is honesty, fairness, and respect for the law and the rights of others." *Missouri Real Estate Comm'n v. Jawadi*, Mo. Admin. Hrg. Comm'n No 12-0384 (Sept. 12, 2013) (citation omitted).

16. Butler may be denied a bail bond agent license pursuant to § 374.755.1(2), because he pled guilty to two felonies within the past 15 years.

17. By pleading guilty to two felonies within the last 15 years, Butler is disqualified for licensure because he fails to meet the qualifications for sureties as set forth in Missouri Supreme Court Rule 33.17(c). *State of Missouri v. Shawn S. Butler*, Jackson Co. Cir. Ct., No. 1116-CR05374-01 and *State of Illinois v. Shawn S. Butler*, Circuit Court of the Seventh Judicial Circuit, Case No. 11-CF-29. 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 Butler 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).

18. Butler may be denied a bail bond agent license pursuant to Section 374.755.1(6), because Butler knowingly signed under oath two affidavits falsely claiming to be a licensed bail bond agent after his license had expired, thereby demonstrating that Butler engaged in misconduct, gross negligence, fraud, or misrepresentation in the performance of the functions or duties of the profession of a bail bond agent.

19. Butler fails to establish that he is of good moral character based on the following: he pled guilty to two recent felonies involving drugs; his failure to notify the Department of changes in his Illinois case as promised; his assurance to the Department that he had nothing to do with the Illinois charges, but did plead guilty in the case; and his submission of false affidavits to the Platte County Circuit Court. Butler's actions do not demonstrate honest, fairness, and respect for the law.

20. The Director has considered Butler's history and all of the circumstances surrounding Butler's Application. Issuing Butler a bail bond agent license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to issue Butler a bail bond

agent license. Furthermore, pursuant to Mo.S.Ct.R. 33.17(c), Butler is disqualified for a bail bond license, and the Director has no discretion and must refuse to issue Butler a bail bond agent license.

21. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the bail bond agent license application of **Shawn S. Butler** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 28th DAY OF JANUARY, 2014.



JOHN M. HUFF
DIRECTOR



NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

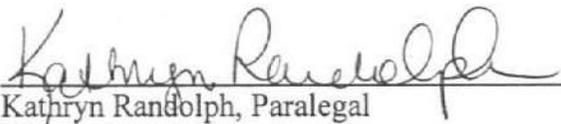
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120 RSMo. Pursuant to 1 CSR 15-3.290, unless you send your complaint by registered or certified mail, it will not be considered filed until the Administrative Hearing Commission receives it.

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of January, 2014, a true and accurate copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail, UPS, electronic tracking and signature required, at the following address:

Shawn S. Butler
241 NW Whitlock Drive
Lee's Summit, Missouri 64081

No. 1Z0R15W84299275612


Kathryn Randolph, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.2619
Facsimile: 573.526.5492
Email: Kimberly.landiers@insurance.mo.gov