State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN RE:	)	
	)	Case No. 11-0411452C
James A. Sheats, Jr.,	)	
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
1161 Osage Beach Road	)	
Osage Beach, Missouri 65065	)	

ORDER REFUSING TO ISSUE BAIL BOND AGENT LICENSE

On July 21, 2011, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue James A. Sheats, Jr.'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. James A. Sheats, Jr. ("Sheats") is an individual residing in Missouri. His mailing and residence address is 1161 Osage Beach Road, Osage Beach, Missouri 65065.

2. The Department of Insurance, Financial Institutions and Professional Registration ("Department") first issued Sheats a bail bond agent license on May 30, 2006. That license expired on May 30, 2010.

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

4. 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)."

5. Sheats answered "Yes" to Background Question B and submitted a letter indicating that he had been charged with driving while intoxicated in Montgomery County, Missouri, in October, 2009, for which he had received two years' probation. Sheats also indicated he was charged with driving while suspended on January 1, 2010, and that the prosecutor amended the charge to operating a motor vehicle without a license on May 26, 2010. Sheats further indicated he had been charged with felony assault after an incident in September, 2009, and that the charges had been amended to a misdemeanor assault with two years' probation on June 2, 2010.

6. Official records support the following:

   a. On May 19, 1993, the Miller County, Missouri prosecutor charged Sheats with forgery, a class C felony. Sheats pled guilty to the charge. The court suspended the imposition of sentence and placed Sheats on probation for five years. *See State of Missouri v. James A. Sheats, Jr.*, Miller County, Case No. CR692-456FX.

   b. On March 16, 2000, the Boone County, Missouri prosecutor charged Sheats with operating a motor vehicle on the highway with a suspended driver's license, a class B misdemeanor. Sheats pled guilty to the amended charge of operating a motor vehicle without a license, a class C misdemeanor, and paid a $150 fine. *See State of Missouri v. James Autry Sheats*, Boone County, Case No. 13R010069190.

   c. On August 1, 2008, Sheats paid a voluntary forfeiture of $100 for failing to disclose the 2000 misdemeanor operating a motor vehicle without a license conviction on his bail bond license renewal application. *In Re: James A. Sheats*, Consumer Affairs Division File No. 08A00055.

   d. In October, 2008, the Department received an anonymous complaint stating that Sheats executed powers of attorney in May, 2008, after his bail bond license had expired and before the Department renewed his bail bond license. The Department's Consumer Affairs Division investigation revealed Sheats had written a total of seven powers of attorney while he was unlicensed. On December 11, 2008, Sheats paid a voluntary forfeiture of $400 to settle the matter. *In Re: James Sheats*, Consumer Affairs Division File No. 08A000835.

   e. On or about September 25, 2009, the Camden County, Missouri

prosecutor charged Sheats with assault in the second degree, a class C felony. Sheats pled guilty to an amended charge of assault in the third degree, a class A misdemeanor, on June 2, 2010. The court suspended the imposition of sentence and placed Sheats on court supervised probation for two years. The Probable Cause Statement states:

> [Larry S. Meeker] was approached by a male subject whom he knew as James A. Sheats Jr. Meeker stated that Sheats began yelling at Meeker and accused him of sleeping with Sheats['], soon to be, ex wife. Meeker attempted to reason with Sheats and explained that he had not slept with his wife. Meeker stated that Sheats struck Meeker in the face with a closed fist, knocking Meeker to the ground. Meeker 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 ... Meeker was referred to [a] plastic surgeon for possible reconstructive surgery.

See State of Missouri v. James Autry Sheats Jr., Camden County, Case No. 09CM-CR02048.

f. On October 17, 2009, a police officer pulled over Sheats for speeding. During the stop, Sheats performed poorly on field sobriety tests and his breath smelled of intoxicants. Sheats pled guilty to a class B misdemeanor of Driving While Intoxicated on February 11, 2010. The court suspended the imposition of sentence and placed Sheats on court supervised probation for two years. *See State of Missouri v. James A. Sheats Jr.*, Montgomery County, Case No. 09AA-CR00610.

g. On January 1, 2010, the Camden County, Missouri prosecutor charged Sheats with operating a vehicle on the highway without a valid license, a class A misdemeanor. Sheats pled guilty on June 2, 2010. The court suspended the imposition of sentence and placed Sheats on court supervised probation for two years. *See State of Missouri v. James Autry Sheats*, Camden County, Case No. 10CM-CR00193.

CONCLUSIONS OF LAW

7. Section 374.715.1, RSMo (Supp. 2010),[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

[1] All statutory references are to the Revised Statutes of Missouri (Supp. 2010) unless otherwise noted.

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.

8. 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.

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 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;
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> * * *
>
> (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:

* * *

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

11. The standard for analyzing moral turpitude has been set forth numerous times by the Administrative Hearing Commission:

> Moral turpitude is:
> 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 *Brehe v. Missouri Dep't of Elementary and Secondary Education*, a case that involved discipline of a teacher's certificate under § 168.071 for committing a crime involving moral turpitude, the court referred to three classifications of crimes:
>
> 1. crimes that necessarily involve moral turpitude, such as frauds (Category 1 crimes);
> 2. crimes "so obviously petty that conviction carries no suggestion of moral turpitude," such as illegal parking (Category 2 crimes); and
> 3. crimes that "may be saturated with moral turpitude," yet do not involve it necessarily, such as willful failure to pay income tax or refusal to answer questions before a congressional committee (Category 3 crimes).

12. *State Bd. of Nursing v. Richmond*, No. 10-0212 BN (Mo. Admin. Hrg. Comm'n May 5, 2011).

13. Sheats may be denied a bail bond agent license pursuant to § 374.755.1(2), for pleading guilty to a crime involving moral turpitude within the past 15

years. Sheats pled guilty to assault in the third degree in 2010. Assault in the third degree is a Category 3 crime under *Brehe*, and as such "require[s] consideration of 'the related factual circumstances' of the offense[.]" *State Bd. of Nursing v. Blaine*, No. 08-2134 BN (Mo. Admin. Hrg. Comm'n September 18, 2009). Sheats sought out his victim and struck him with the intention of causing devastating physical harm. *See State of Missouri v. James Autry Sheats Jr.*, Camden County, Case No. 09CM-CR02048. The "accepted and customary rule of right and duty between man and man" would dictate that Sheats at least listen to Meeker's story, but that did not happen. Sheats approached Meeker with the intention of harming him, and accomplished that goal with one well-aimed strike to the face. *See id.*

14. By pleading guilty to a crime of moral turpitude within the last 15 years, Sheats is disqualified for licensure because he fails to meet the qualifications for sureties as set forth in Rule 33.17(c). *See State of Missouri v. James Autry Sheats Jr.*, Camden County, 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 of Dep't Ins., Fin. Insts. & Prof'l Reg'n,* 07-1364 DI, (Mo. Admin. Hrg. Comm'n July 7, 2008).

15. Sheats may be denied a bail bond agent license pursuant to § 374.755.1(3) because by failing to disclose his 1993 felony guilty plea to forgery, he used fraud, deception, or misrepresentation to attempt to secure a bail bond agent license. *See State of Missouri v. James A. Sheats, Jr.*, Miller County, Case No. CR692-456FX.

16. Sheats may be denied a bail bond agent license pursuant to § 374.755.1(6), for violations of "any provision of or any obligation imposed by the laws of this state." Sheats has, in the past 15 years, pled guilty to operating a motor vehicle on the highway without a valid license, assault in the third degree, driving while intoxicated, and again operating a vehicle on the highway without a valid license. These actions violated § 302.020, RSMo (Supp. 1999), § 565.070, RSMo (Supp. 1998), § 577.010, and § 302.020, RSMo (Supp. 1999), respectively. Each of these violations is sufficient grounds to deny his Application pursuant to § 374.755.1(6). *See State of Missouri v. James Autry Sheats*, Boone County, Case No. 13R010069190; *State of Missouri v. James Autry Sheats Jr.*, Camden County, Case No. 09CM-CR02048; *State of Missouri v. James A. Sheats Jr.*, Montgomery County, Case No. 09AA-CR00610; *State of Missouri v. James Autry Sheats*, Camden County, Case No. 10CM-CR00193.

17. Additionally, Sheats' recent and past criminal history shows a consistent lack of good moral character, thereby disqualifying him from licensure. *See* § 374.715.1 ("Each application shall be accompanied by proof . . . that the applicant . . . is of good moral character"). In a Probable Cause Statement dated January 5, 2010, Officer James Chapman stated, "I believe that the defendant poses: A danger to the public due to the fact that SHEATS knows that he is suspended and continues to operate a motor vehicle on the roadway." *See State of Missouri v. James Autry Sheats*, Camden County, Case No. 10CM-CR00193. Also in 2010, Sheats continued to operate a motor vehicle, knowing his license was suspended, while still awaiting the final outcome of his DWI case. This recent and blatant disregard for the law shows a continuing lack of good moral character, thereby disqualifying Sheats for licensure under § 374.715.1.

18. The Director has considered Sheats' history and all of the circumstances surrounding Sheats' Application for licensure and exercises his discretion in summarily refusing to issue Sheats' bail bond agent license.

19. Granting Sheats' bail bond agent license would not be in the public interest.

20. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the bail bond agent license of James A. Sheats, Jr. is hereby summarily REFUSED.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 10TH DAY OF AUGUST, 2011.

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 11th day of August, 2011, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by United States Postal Services priority mail #03073330000070831497 and certified mail No. 70082810000020148366.

James A. Sheats, Jr.
1161 Osage Beach Road
Osage Beach, Missouri 65065

Kathryn Randolph

Kathryn Randolph