



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:

Dwayne A. McCoy,

Applicant.

)
)
)
)
)

Case No. 100723530C

REFUSAL TO ISSUE A BAIL BOND AGENT LICENSE

On November 30, 2010, Ross A. Kaplan, Enforcement Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue a bail bond agent license to Dwayne Alan McCoy. 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:

FINDINGS OF FACT

1. Dwayne Alan McCoy ("McCoy") is a Missouri resident with an address of 508 NE Chipman Road Apartment 96, Lee's Summit, Missouri 64063.
2. On or about April 09, 2010, the Department of Insurance, Financial Institutions, and Professional Registration ("Department") received McCoy'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. McCoy answered "No" to Background Question B.
5. On the Application, Part V - "Applicant Signature," states:

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.

6. McCoy signed and dated the application.
7. McCoy did not disclose that he was convicted in Case No. CR194-2334FX – *State of Missouri v. Dwayne McCoy*. On or about June 21, 1995, McCoy pleaded guilty to the class D felony of attempting to commit the offense of stealing over \$150.00 in violation of §§ 564.011 and 570.030, RSMo (1994).
8. On or about April 22, 2010, Investigator Les Hogue (“Hogue”) mailed a letter to McCoy recommending he withdraw his bail bond application due to the conviction and requesting McCoy contact Hogue to inform him of his decision of whether or not to go forward with the application.
9. The April 22, 2010 letter was not returned to the Department as undeliverable. The Department did not receive a response from McCoy within 20 days from the date Hogue mailed the letter. To date, the Department has not received any response from McCoy regarding the April 22, 2010 letter.

CONCLUSIONS OF LAW

10. 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 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.

11. Section 374.750, RSMo (2009), 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.

12. 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:

* * *

- (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;

* * *

- (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[.]

13. Title 20 CSR 100-4.100, Required Response to Inquiries by the Consumer Affairs Division, provides in relevant part:

- (2) Except as required under subsection (2)(B)—

- (A) Upon receipt of any inquiry from the division, every person shall mail to the division an adequate response to the inquiry within twenty (20) days from the date the division mails the inquiry. An envelope's postmark shall determine the date of mailing. When the requested response is not produced by the person within twenty (20) days, this nonproduction shall be deemed a violation of this rule, unless the person can demonstrate that there is reasonable justification for that delay.

14. Under Missouri law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mails. *Hughes v. Estes*, 793 S.W.2d 206 (Mo. App. S.D. 1990).

15. McCoy misrepresented his criminal history in an effort to unlawfully obtain a bail bond agent license when he answered "No" to Background Question B because he had a felony conviction. Attempting to hide a criminal past to obtain a license does not display good moral character.

16. The Director may refuse to issue a bail bond agent license to McCoy because McCoy has not satisfactorily proven himself to be of good moral character, as is required by §374.715.1 RSMo (Supp. 2009).

17. The Director may refuse to issue a bail bond agent license to McCoy pursuant to §374.755.1(3), RSMo (Supp. 2009), because McCoy used fraud, deception, or misrepresentation in attempting to secure a bail bond agent license by failing to disclose his criminal guilty plea on the Application.
18. The Director may refuse to issue a bail bond agent license to McCoy pursuant to §374.755.1(6), RSMo (Supp. 2009), because McCoy violated a provision of the laws of this state by attempting to steal over \$150.00 in violation of §§ 564.011 and 570.030, RSMo (1994).
19. The Director may refuse to issue a bail bond agent license to McCoy pursuant to §374.755.1(6), RSMo (Supp. 2009), because McCoy violated a provision of the Department's rules and regulations by failing to respond to a letter sent by Hogue within 20 days in violation of 20 CSR 100-4.100.
32. The Director has considered McCoy's history and all of the circumstances surrounding McCoy's application. McCoy has pleaded guilty to attempted theft, a class D felony. McCoy then failed to disclose that guilty plea which suggests McCoy was trying to conceal his criminal history from the Director because the Director may use that information to refuse his license. McCoy then attested to the veracity of the application, which, due to the concealed conviction, additionally demonstrates that McCoy does not have the good moral character required by this position. McCoy has also refused to communicate with the Department in violation of the Department's regulations. Granting McCoy a Missouri bail bond agent license would not be in the interest of the public.
33. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the bail bond agent license of Dwayne Alan McCoy is hereby summarily **REFUSED**.

SO ORDERED.



WITNESS MY HAND THIS 2ND 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 of Missouri, P.O. Box 1557, Jefferson City, Missouri within 30 days after the mailing of this notice pursuant to §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 3rd day of December, 2010, a copy of the foregoing Notice and Order was served upon the Applicant Dwayne Alan McCoy in this matter by certified mail No. 7007 0710 0002 2058 2893 at

Dwayne Alan McCoy
508 NE Chipman Road Apartment 96
Lee's Summit, Missouri 64063

