



**DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

P.O. Box 690, Jefferson City, Mo. 65102-0690

In re:) DIFP No. 120203139C
)
ANTHONY R. KING) AHC Case No. 12-1706 DI

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER OF DISCIPLINE**

Based on the competent and substantial evidence on the whole record, I, John M. Huff, Director of the Missouri Department of Insurance, Financial Institutions, and Professional Registration, hereby issue the following Findings of Fact, Conclusions of Law, and Order of Discipline.

Findings of Fact

1. John M. Huff is the duly appointed Director ("Director") of the Missouri Department of Insurance, Financial Institutions and Professional Registration ("Department"), whose duties, pursuant to Chapters 374 RSMo,¹ include supervision, regulation, and discipline of bail bond agents.

2. On December 10, 2007, the Department issued Respondent Anthony R. King ("King") a bail bond agent license (No. 0407931), which expired on July 13, 2012.

¹All statutory references are to RSMo (Supp. 2012) unless otherwise indicated.

3. On September 13, 2012, the Director filed a Complaint with the Administrative Hearing Commission ("Commission") against King, seeking a finding that cause existed for the Director to discipline King's bail bond agent license pursuant to § 374.755.1(2), (5), and (6). *Director of Dep't of Ins., Fin. Insts. & Prof. Reg'n v. Anthony R. King*, No. 12-1706 DI (Mo. Admin. Hrg. Comm'n March 6, 2013).

4. On October 4, 2012, King was served with a copy of the Complaint by certified mail. King never filed an Answer.

5. On January 29, 2013, the Director filed a Motion for Summary Decision and Suggestions in Support in this matter. King did not respond to the Motion.

6. On March 6, 2013, the Commission issued its Decision granting summary decision and finding cause to discipline King's bail bond agent license pursuant to § 374.755.1(2), (5), and (6).

7. In support of that finding of cause, the Commission made findings of fact, which may be summarized as follows:

a. On March 5, 2010, the Department filed a Complaint with the Commission against King, Case No. 10-0369 DI. In connection with that case, King and the Department entered into a Consent Order in which King agreed to pay a \$500.00 forfeiture.

b. Under the "Settlement Terms" section of the Consent Order, King agreed to "comply with 20 CSR 100-4.100 in responding to any future inquiries of the Consumer Affairs Division" and to comply with any future subpoenas issued by the Director, Department, or Consumer Affairs Division ("Division").

c. On December 1, 2011, King pleaded guilty to Unlawful Use of Drug Paraphernalia, a Class A Misdemeanor.

d. The court sentenced King to one year in jail, but suspended the execution of that sentence and placed him on one year of unsupervised probation and ordered him to pay a \$750.00 fine.

e. On July 25, 2011, Sharron Hillegus paid King \$1,000.00 in cash – \$800.00 as collateral for King to bail her son and \$200.00 for an attorney for her son. King gave Hillegus a receipt reflecting the \$1,000.00 paid. However, King did not bail out Hillegus's son nor did he return the \$800.00 she paid for bail.

f. On September 7, 2011 and again on October 3, 2011, Special Investigator Les Hogue of the Division sent inquiry letters to King's address of record requesting a detailed breakdown of each dollar spent with regards to Kayla Russell, who had filed a consumer complaint. Neither letter was returned as undeliverable.

g. King did not respond to the inquiry letters, either with the requested information or to explain why he had not done so.

h. On October 4, 2011, the Director issued a subpoena requiring King's presence on October 27, 2011 at a subpoena conference. The Director sent the October 4, 2011 subpoena by both certified mail and first class mail. On October 6, 2011, King signed for the certified mail.

i. King did not appear at the subpoena conference on October 27, 2011.

j. On October 27, 2011, King left a voicemail for Investigator Hogue stating that he understood that he was supposed to be at the subpoena conference and

that he would like to explain why he couldn't make it.

k. King stated in a telephone conversation with Investigator Hogue that he was available for another subpoena conference on November 23, 2011.

l. On October 28, 2011, the Director issued a subpoena requiring King's presence on November 23, 2011 at 1:00 p.m. for a subpoena conference. The date and time of the subpoena conference was mutually agreed upon by King and Investigator Hogue.

m. The Department sent the subpoena by both certified mail and first class mail. The copy of the October 28, 2011 subpoena sent by certified mail went unclaimed. The copy sent by first class mail was not returned as undeliverable.

n. On November 14, 2011, Investigator Hogue sent a letter to King reminding him of the November 23, 2011 subpoena conference. The November 14, 2011 letter was not returned as undeliverable.

o. King did not appear at the subpoena conference on November 23, 2011. After the subpoena conference concluded, the Department received a letter from King, asking the Department to again reschedule the subpoena conference.

Director of Dep't of Ins., Fin. Insts. & Prof. Reg'n v. Anthony R. King, No. 12-1706 DI (Mo. Admin. Hrg. Comm'n March 6, 2013).

8. Based on these factual findings, the Commission found cause to discipline King's license pursuant to:

a. Section 374.755.1(2) for pleading guilty to a crime of moral turpitude within the past fifteen (15) years, namely Unlawful Use of Drug Paraphernalia, a

Class A Misdemeanor;

b. Section 374.755.1(5) for misappropriating premium taken for a bail bond without bailing out the accused nor returning the money;

c. Section 374.755.1(6) for failure to respond to two inquiry letters from the Division, for violation of two subpoenas issued by the Director, and violation of an obligation imposed by a Consent Order entered into between Mr. King and the Department.

Id.

9. On April 12, 2013, the Commission certified its record of its proceedings to the Director pursuant to § 621.110.

10. On April 26, 2013, the Director served the Notice of Hearing upon King by certified mail and first class mail, which set the disciplinary hearing for 2:00 p.m. on June 18, 2013 in the offices of the Department, 301 West High Street, Jefferson City, Missouri. The U.S. Postal Service did not return the first class mail, but did return the certified mail.

11. On May 13, 2013, the Department served another copy of the Notice of Hearing upon King by first class mail and UPS. The U.S. Postal Service did not return the first class mail and the UPS online tracking reflected that King signed for and received the Notice of Hearing on May 14, 2013.

12. On June 18, 2013, the Director through his hearing officer, Tammy S. Kearns, held the disciplinary hearing. Neither King nor anyone representing King appeared. Mary S. Erickson appeared on behalf of the Department's Consumer Affairs Division (previously introduced as the "Division"). *Disciplinary Hearing Transcript ("Tr.")*, pp. 2-3.

13. At the hearing, the hearing officer took official notice of the Commission's record of proceedings and both Notices of Hearing, which were admitted into evidence as follows:

- a. Exhibit 1, Commission's Certified Record;
- b. Exhibit 2, Notice of Hearing served on April 26, 2013;
- c. Exhibit 3, Notice of Hearing served on May 13, 2013.

Tr. pp. 3-6.

14. At the hearing, the Division, through counsel, recommended that King's bail bond agent license be revoked. *Tr.* p. 7.

15. The Director hereby adopts and incorporates the Commission's March 6, 2013 Decision, including its Findings of Fact and Conclusions of Law, as if fully set out herein as Findings of Fact and as Conclusions of Law of this Order, and does hereby find in accordance with the same. *Director of Dep't of Ins., Fin. Insts. & Prof. Reg'n v. Anthony R. King*, No. 12-1706 DI (Mo. Admin. Hrg. Comm'n March 6, 2013).

16. After the disciplinary hearing, the Division submitted proposed findings of fact, conclusions of law and order of discipline.

Conclusions of Law

17. Section 621.110 provides, in relevant part:

Upon a finding in any cause charged by the complaint for which the license may be suspended or revoked as provided in the statutes and regulations relating to the profession or vocation of the licensee . . . , the commission shall deliver or transmit by mail to the agency which issued the license the record and a transcript of the proceedings before the commission together with the commission's findings of fact and conclusions of law. The commission may make recommendations as to appropriate disciplinary action but any such recommendations shall not

be binding upon the agency. . . . Within thirty days after receipt of the record of the proceedings before the commission and the findings of fact, conclusions of law, and recommendations, if any, of the commission, the agency shall set the matter for hearing upon the issue of appropriate disciplinary action and shall notify the licensee of the time and place of the hearing[.] . . . The licensee may appear at said hearing and be represented by counsel. The agency may receive evidence relevant to said issue from the licensee or any other source. After such hearing the agency may order any disciplinary measure it deems appropriate and which is authorized by law. . . .

18. Where an agency seeks to discipline a license, the Commission “finds the predicate facts as whether cause exists” for the discipline, and then the agency “exercises final decision making authority concerning the discipline to be imposed.” *Tendai v. Board of Reg’n for the Healing Arts*, 161 S.W.3d 358, 364-65 (Mo. banc 2005), *overruled on other grounds*, *Albanna v. Board of Reg’n for the Healing Arts*, 293 S.W.3d 423, 428 n.2 (Mo. banc 2009).

19. Section 374.051.2, relating to a proceeding to revoke or suspend a license, states, in relevant part:

2. If a proceeding is instituted to revoke or suspend a license of any person under sections 374.755, 374.787, and 375.141, the director shall refer the matter to the administrative hearing commission by directing the filing of a complaint. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in such cases. The director shall have the burden of proving cause for discipline. If cause is found, the administrative hearing commission shall submit its findings of fact and conclusions of law to the director, who may determine appropriate discipline.

20. Section 374.755 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 issuance of license date;

* * *

(5) 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;

(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[.]

* * *

2. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that one or more of the causes stated in subsection 1 of this section have been met, the director may suspend or revoke the license or enter into an agreement for a monetary or other penalty pursuant to section 374.280.

21. The principal purpose of § 374.755, much like § 375.141, is not to punish licensees, but to protect the public. *See Ballev v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984).

22. The Director has the discretion to discipline King's license, including the discretion to revoke such license, even when the licensee has failed to renew his license. §§ 374.755 and 621.110.

23. The Administrative Hearing Commission has the authority to conduct hearings

and make findings of fact and conclusions of law that cause exists to suspend or revoke a bail bond agent license. §§ 621.045 and 621.110.

24. Section 621.110 allows the Director to receive evidence relevant to the appropriate disciplinary action.

25. King was convicted of a crime of moral turpitude and accepted money for a bond, but did not bond the accused, nor return the money. King also failed to respond to two inquiry letters from the Division, violated two subpoenas of the Director, and violated obligations imposed by a Consent Order he entered into with the Department.

26. The actions described demonstrate King's disregard of the Department's regulatory authority and King's obligation under the law to that authority.

27. Based on the nature of the aforementioned conduct, sufficient grounds exist to revoke King's bail bond agent license pursuant to § 374.755.1(2), (5), and (6).

28. This Order is in the public interest.

ORDER

Based on the evidence presented and the foregoing findings and conclusions, **Anthony R. King's** bail bond agent license (License No. 0407931) is hereby **REVOKED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 1ST **DAY**
OF OCTOBER, 2013.




John M. Huff, Director
Missouri Department of Insurance,
Financial Institutions & Professional Registration

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of October, 2013, a copy of the foregoing Findings of Fact, Conclusions of Law and Order of Discipline, was served by first class mail and UPS, No. 1Z0R15W84293903391, to the following:

Anthony R. King
406 North Cogil
Carl Junction, MO 64834

And by hand-delivery and electronic mail to:

Mary Erickson, Esq.
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