



STATE OF MISSOURI
DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS &
PROFESSIONAL REGISTRATION

IN THE MATTER OF:)
)
 Donny L. Bennartz,) Case No. 10-0723534C
)
 Applicant.)
)
 Serve at:)
)
 161 East Crest Court)
 Columbia, Missouri 65202)

REFUSAL TO ISSUE BAIL BOND AGENT LICENSE

On August 30, 2010, Tamara W. Kopp, Senior 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 Donny L. Bennartz. 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. Donny L. Bennartz ("Bennartz") is a Missouri resident with an address of 161 East Crest Court, Columbia, Missouri 65202.
2. On or about February 26, 2010, the Department of Insurance, Financial Institutions, and Professional Registration ("Department") received Bennartz'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. Bennartz answered "Yes" to Background Question B and disclosed to following:

- a. Bennartz was arrested in Cole County, Missouri in August 1978, for possession of marijuana. Bennartz pleaded guilty to possession of marijuana and was sentenced to one year in county jail. See *State of Missouri v. Randall Lee Scott & Donny Lee Bennartz*, Case No. 30751.
 - b. Bennartz also disclosed a theft arrest in Cole County, Missouri, January 1981, where Bennartz “took a truck that didn’t belong to [him]” and he “didn’t pull over immediately after being summoned to do so.” Bennartz pleaded guilty to class D felony resisting arrest and class C felony stealing and was sentenced to three years confinement. See *State of Missouri v. Donnie [sic] Lee Bennartz*, Case No CR381-104FX.
5. Bennartz included a letter with the Application that further explained his response to Background Question B. In the letter, he described the above referenced criminal convictions as “youthful indiscretion[s]” and stated that “for the last 29 years I have not been arrested, charged or committed any crimes.”
6. Bennartz did not disclose the following misdemeanor guilty pleas on the Application or accompanying documents:
- a. Case No. 14T050001993 – *State of Missouri v. Donny L. Bennartz*. On or about December 19, 2000, Bennartz pleaded guilty to the class B misdemeanor of exceeding the posted speed limit by 20 miles per hour or more in violation of § 304.010, RSMo (Supp. 2009).
 - b. Case No. 041231064 – *State of Missouri v. Donny Bennartz*. On or about April 19, 2006, Bennartz pleaded guilty to the class C misdemeanor of exceeding the posted speed limit by 11-15 miles per hour in violation of § 304.010, RSMo (Supp. 2009).
 - c. Case No. 070874169 – *State of Missouri v. Donny Bennartz*. On or about February 17, 2009, Bennartz pleaded guilty to the class C misdemeanor of exceeding the posted speed limit by 11-15 miles per hour in violation of § 304.010, RSMo (Supp. 2009).

CONCLUSIONS OF LAW

7. 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 a 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, RSMo (2000), 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, 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[.]

**CAUSE FOR ORDER TO REFUSE TO ISSUE A
BAIL BOND AGENT LICENSE**

10. The Director may refuse to issue a bail bond agent license to Bennartz pursuant to § 374.755.1(3), RSMo (Supp. 2009), because Bennartz used fraud, deception, or misrepresentation in attempting to secure a bail bond agent license by failing to disclose at least three criminal guilty pleas on the Application.
11. The Director may refuse to issue a bail bond agent license to Bennartz pursuant to

§ 374.755.1(6), RSMo (Supp. 2009), because Bennartz violated a provision of the laws of this state by possessing a controlled substance over 35 grams in violation of § 195.200, RSMo (Supp. 1977) (repealed and now codified at § 195.202, RSMo (2000)).

12. The Director may refuse to issue a bail bond agent license to Bennartz pursuant to § 374.755.1(6), RSMo (Supp. 2009), because Bennartz violated a provision of the laws of this state by stealing a vehicle in violation of § 570.030, RSMo (Supp. 1980).
13. The Director may refuse to issue a bail bond agent license to Bennartz pursuant to § 374.755.1(6), RSMo (Supp. 2009), because Bennartz violated a provision of the laws of this state by resisting arrest in violation of § 575.150, RSMo (Supp. 1980).
14. The Director may refuse to issue a bail bond agent license to Bennartz pursuant to § 374.755.1(6), RSMo (Supp. 2009), because Bennartz violated a provision of the laws of this state by exceeding the speed limit on at least three occasions in violation of § 304.010, RSMo (Supp. 2009).
15. The Director may refuse to issue a bail bond agent license to Bennartz pursuant to § 374.715.1, RSMo (Supp. 2009), because Bennartz fails to meet the minimum qualifications of a bail bond agent in that Bennartz has failed to demonstrate that he possesses the requisite good moral character.
16. Granting Bennartz' bail bond agent license would not be in the interest of the public. Bennartz violated the laws of this state on at least five occasions between 1978 and 2009. Bennartz failed to disclose at least three criminal guilty pleas which suggests Bennartz was trying to conceal his criminal history from the Director because the Director may use that information to refuse his license. Bennartz's failure to disclose three criminal guilty pleas reflects poorly on his present moral character, particularly when he affirmatively stated that he had not been "charged [with] or committed any crimes" for the past 29 years.
17. The Director has considered Bennartz's history and all of the facts and circumstances surrounding the Application, and for the reasons stated in this Petition refuses to issue Bennartz a bail bond agent license.
18. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the bail bond agent license application of Donny L. Bennartz is hereby summarily REFUSED.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 30TH DAY OF AUGUST, 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, 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 31st day of August, 2010, a duplicate original of the foregoing Order and Notice was served upon the Applicant in this matter by certified/priority mail No. 7007-3020-0003-1572-4490.

Donny L. Bennartz
161 East Crest Court
Columbia, Missouri 65202



Kim Landers