



State of Missouri

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

IN RE:)
)
James Albert Stapleton, II,) **Case No. 161206543C**
)
Applicant.)

ORDER REFUSING TO ISSUE BAIL BOND AGENT LICENSE

On April 17, 2017, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse to issue a Bail Bond Agent license to James Albert Stapleton, II. After reviewing the Petition and the Investigative Report, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. James Albert Stapleton, II ("Stapleton") is a Missouri resident with an address of record of 3248 Pine St. Farmington, Missouri 63640.
2. On April 27, 2015, the Department of Insurance, Financial Institutions and Professional Responsibility ("Department") received Stapleton's completed Application for Bail Bond or Surety Recovery License ("Application").
3. Question B of the Background Information portion of the Application asks, in relevant part:

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).

If YES, provide a full, written explanation on a separate sheet of paper including the name and address of court, basis of charge, outcome, and whether you received an executive pardon. Also, attach certified court documents of the information or Indictment and the Final Adjudication.

4. Stapleton responded "YES" to Question B and provided a statement and court documents disclosing the following criminal history:
 - a. On January 8, 1999, Stapleton pled guilty to Unlawful Use of a Weapon, a Class D Felony in violation of § 571.030 RSMo.¹ On April 9, 1999, Stapleton was sentenced to five (5) years' incarceration and ordered to serve 120 days' shock incarceration. On July 15, 1999, the court suspended execution of Stapleton's five (5) year sentence and ordered him to complete five (5) years' supervised probation. *State v. James A. Stapleton II*, St. Francois Cir. Ct., Case No. 24R079801437-01.
5. Stapleton signed the "Applicant Signature" portion of the Application, thereby stating:

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. Stapleton submitted his Application containing the above statement to the Director.
7. Contrary to Stapleton's statement that all of the information submitted in his Application was true and complete, Stapleton omitted the following pertinent or material criminal history from his response to Question B of the Application:
 - a. On March 12, 1998, based on a written plea of guilt, the court convicted Stapleton of Property Damage in 2nd Degree, a Class B Misdemeanor in violation of § 569.120. The court suspended imposition of a sentence and ordered Stapleton complete one year unsupervised probation. *State v. James A. Stapleton II*, St. Francois Co. Cir. Ct., Case No. 24R079703075.
 - b. On January 8, 1999, Stapleton was convicted and fined \$100 for Operating a Vehicle on a Highway Without a License, a Class C Misdemeanor, in violation of § 302.020. *State v. James A. Stapleton II*, St. Francois Cir. Ct., Case No. 24R079800688.
 - c. On April 13, 1999, based on a written plea of guilt, the court convicted Stapleton of Assault in the 3rd Degree, a Class A Misdemeanor, in violation of § 565.070, and sentenced him to 60 days' incarceration to run concurrently with the sentence in his felony Case No. 24R079801437-01. *State v. James A. Stapleton II*, St. Francois Cir. Ct., Case No. 24R079900966.
 - d. On July 22, 2008, Stapleton was convicted of Operating a Motor Vehicle on the Highway While Driver's License/Privileges were Revoked (Suspended for Probable Cause of .08% Blood Alcohol Content and Zero Tolerance), a Class A Misdemeanor,

¹ All references to criminal statutes are to those versions of the Revised Statutes of Missouri under which the court rendered its judgment.

in violation of § 302.321. The court sentenced Stapleton to 22 days' incarceration. *State v. James A. Stapleton*, St. Francois Cir. Ct., Case No. 07D7-CR01905.

- e. On July 22, 2008, Stapleton was convicted of Operating a Motor Vehicle on the Highway While Driver's License/Privileges were Revoked (Revoked For Abuse And Lose Law), a Class A Misdemeanor, in violation of § 302.321. The Court sentenced Stapleton to 22 days' incarceration to run concurrently with the sentence imposed in Case No. 07D7-CR01905. *State v. James A. Stapleton*, St. Francois Cir. Ct., Case No. 07D7-CR02427.
- f. On November 18, 2008, Stapleton was again convicted of Operating a Motor Vehicle on the Highway While Driver's License/Privileges were Revoked (Suspended for Probable Cause of .08% Blood Alcohol Content and Zero Tolerance), a Class A Misdemeanor, in violation of § 302.321. The Court sentenced Stapleton to ten (10) days' incarceration and ordered him to pay a fine of \$250. *State v. James A. Stapleton*, St. Francois Cir. Ct., Case No. 08D7-CR01441.
8. On April 29, 2015, a Special Investigator with the Consumer Affairs Division (the "Division") of the Department sent Stapleton an inquiry letter to his address of record. This inquiry letter repeated the language of Question B of the Application requiring applicants "report all criminal cases..." (*emphasis original*) and requested that Stapleton submit a letter explaining criminal matters which he failed to disclose on his Application. The inquiry letter cited 20 CSR 100-4.100(2)(A), requested a response within twenty days, and warned Stapleton that failure to respond could result in non-issuance of a bail bond agent license.
9. The United States Postal Service did not return the Division's April 29, 2015 inquiry letter as undeliverable and therefore, Stapleton is presumed to have received it.
10. Stapleton did not respond to the April 29, 2015 inquiry letter nor did he demonstrate a reasonable justification for the delay.
11. On May 29, 2015, the Division sent a second inquiry letter to Stapleton at his address of record. The second inquiry letter requested the same information that was requested in the first inquiry letter, again cited 20 CSR 100-4.100(2)(A), requesting a response within twenty days, and warned Stapleton that failure to respond could result in non-issuance of a bail bond agent license.
12. The United States Postal Service did not return the Division's May 29, 2015 inquiry letter as undeliverable and therefore, Stapleton is presumed to have received it.
13. Stapleton did not respond to the May 29, 2015 inquiry letter nor did he demonstrate a reasonable justification for the delay.
14. On July 7, 2015, the Division sent a third inquiry letter to Stapleton at the same address. The third inquiry letter requested the same information as the previous two inquiry letters, again cited 20 CSR 100-4.100(2)(A), requesting a response within twenty days,

and warned Stapleton that failure to respond could result in non-issuance of a bail bond agent license.

15. The United States Postal Service did not return the Division's July 7, 2015 inquiry letter as undeliverable and therefore, Stapleton is presumed to have received it.
16. Stapleton did not respond to the July 7, 2015 inquiry letter nor did he demonstrate a reasonable justification for the delay.
17. Stapleton has never provided any response to the Division's three (3) inquiry letters nor has he demonstrated any reasonable justification for the delay.
18. On January 6, 2016, the Director issued a Subpoena and Subpoena Duces Tecum ("Subpoena") ordering Stapleton to appear before the Director on January 19, 2016 to answer questions concerning his failure to disclose a felony conviction and misdemeanor convictions and his failures to respond to Department inquiries. The Subpoena further ordered Stapleton to produce court records relating to his felony and misdemeanor convictions.
19. Stapleton did not appear before the Director on January 19, 2016, or produce court records as ordered by the Subpoena. Stapleton did not contact the Department prior to or after January 19, 2016, and has not offered the Department any justification or explanation for his failure to appear.
20. It is inferable, and hereby found as fact, that Stapleton intentionally omitted pertinent or material information in response to Question B on his Application in order to deceive the Director by misrepresenting the extent of his criminal history and thereby improve the chances that the Director would issue him a bail bond agent license.
21. It is further inferable, and hereby found as fact, that Stapleton signed the statement affirming that his "application and attachments [were] true and complete" knowing that his statement was false and that his application would be submitted to the Director.

CONCLUSIONS OF LAW

22. Section 374.750 RSMo (2000) 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.

23. Section 374.755.1 RSMo (Supp. 2013) provides the following, in pertinent part:

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:

* * *

- (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; [or]

* * *

- (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[.]

24. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries by the Consumer Affairs Division, provides:

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.

25. "There is a presumption that a letter duly mailed has been received by the addressee." *Clear v. Missouri Coordinating Bd. for Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. 2000) (internal citations omitted).
26. The Director may refuse to issue a bail bond agent license to Stapleton pursuant to § 374.755.1(3) because Stapleton used fraud, deception, misrepresentation or bribery in attempting to secure a bail bond agent license when he intentionally omitted pertinent or material information from his Application in order to deceive the Director and improve his chances of securing a bail bond agent license.
27. The Director may refuse to issue a bail bond agent license to Stapleton pursuant to § 374.755.1(6) because Stapleton violated the following obligations imposed by the laws of this state:
 - a. Stapleton violated § 571.030 as demonstrated by his conviction for Unlawful Use of a Weapon. *State v. James A. Stapleton II*, St. Francois Cir. Ct., Case No. 24R079801437-01.

- b. Stapleton violated § 302.020 as demonstrated by his conviction for Operating a Vehicle on a Highway without a license. *State v. James A. Stapleton II*, St. Francois Cir. Ct., Case No. 24R079800688.
 - c. Stapleton violated § 565.070 as demonstrated by his conviction for Assault in the 3rd Degree. *State v. James A. Stapleton II*, St. Francois Cir. Ct., Case No. 24R079900966.
 - d. Stapleton violated § 302.321 as demonstrated by his three (3) convictions for Operating a Motor Vehicle on the Highway While Driver's License/Privileges were Revoked. *State v. James A. Stapleton*, St. Francois Cir. Ct., Case No. 07D7-CR01905; *State v. James A. Stapleton*, St. Francois Cir. Ct., Case No. 07D7-CR02427; *State v. James A. Stapleton*, St. Francois Cir. Ct., Case No. 08D7-CR01441.
28. The Director may refuse to issue a bail bond agent license to Stapleton pursuant to § 374.755.1(6) because Stapleton failed to provide adequate responses to three (3) inquiry letters from the Division and failed to provide a reasonable justification for the delay, thereby violating 20 CSR 100-4.100(2)(A).
 29. Each failure to adequately respond to an inquiry letter from the Division constitutes a separate violation of 20 CSR 100-4.100(2)(A) and therefore provides separate and sufficient ground for refusal pursuant to § 374.755.1(6).
 30. The Director may refuse to issue a bail bond agent license to Stapleton pursuant to § 374.755.1(6) because Stapleton violated an obligation imposed by the Director of the Department when he failed to appear and provide documents as ordered by the Director's Subpoena of January 6, 2016.
 31. The Director has considered Stapleton's history and all of the circumstances surrounding his Application and exercises her discretion to refuse to issue James Albert Stapleton, II, a bail bond agent license.
 32. This order is in the public interest.

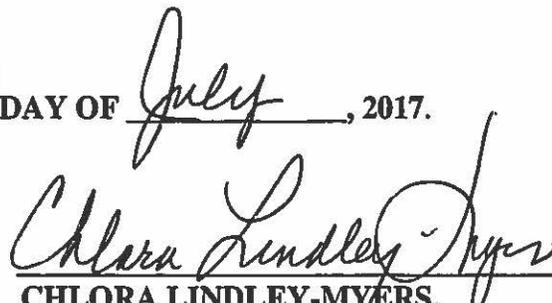
ORDER

IT IS THEREFORE ORDERED that James Albert Stapleton, II's, bail bond agent license application is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 25th DAY OF July, 2017.





CHLORA LINDLEY-MYERS,
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 July 26, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, to the following address:

James Albert Stapleton
3248 Pine St.
Farmington, Missouri 63640

Tracking No. 1Z0R15W84290958392



Kathryn Latimer

Paralegal

Missouri Department of Insurance, Financial
Institutions and Professional Registration

301 West High Street, Room 530

Jefferson City, Missouri 65101

Telephone: 573.751.6515

Facsimile: 573.526.5492

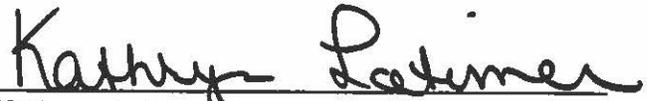
Email: kathryn.latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on this August 8, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, certified mail, to the following address:

James Albert Stapleton
3248 Pine St.
Farmington, Missouri 63640

Certified No. 7016 0340 0000 7970 3593



Kathryn Latimer

Paralegal

Missouri Department of Insurance, Financial
Institutions and Professional Registration

301 West High Street, Room 530

Jefferson City, Missouri 65101

Telephone: 573.751.6515

Facsimile: 573.526.5492

Email: kathryn.latimer@insurance.mo.gov