



FINAL ORDER
EFFECTIVE
11-19-2018

State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:)
)
 LINDSEY DIANE SOUTHARD,) Case No. 171114448C
)
 Applicant.)

ORDER REFUSING TO ISSUE
A BAIL BOND AGENT LICENSE

On January 18, 2018, the Consumer Affairs Division (“Division”) submitted a ~~Petition to the Director alleging that Lindsey Diane Southard was disqualified from~~ holding a bail bond agent license and alleging cause for refusing to issue a bail bond agent license to Lindsey Diane Southard. After reviewing the Petition, the Investigative Report, and other relevant documents, the Director issues the following findings of fact, conclusions of law and order:

FINDINGS OF FACT

1. Lindsey Diane Southard (“Southard”) is a Missouri resident with a residential and mailing address of 5753 E. Zora Street, Joplin, Missouri 64801.
2. On September 26, 2017, the Department received Southard’s Missouri Uniform Application for Bail Bond or Surety Recovery License (“Application”).
3. Part V, the “Applicant Signature” section of the Application, states, in relevant part:

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.

4. Southard signed the Application on September 19, 2017.
5. Part III, the Background Information section of the Application, 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).

6. Southard answered “No” to Question B.
7. The Division’s investigation revealed that Southard failed to disclose on her Application the fact that she had previously pled guilty to two felonies, as follows:
 - a. On March 8, 2005, Southard pled guilty to the Class A Felony of Possession of Controlled Substance Except 35 Grams or Less of Marijuana, Persistent Offender, in violation of § 195.202.¹ *State v. Lindsey Vaught*,² Stone Co. Cir. Ct., Case No. 39CR060401121. The court suspended imposition of sentence and placed Southard on supervised probation for five years. *Id.*
 - b. On March 8, 2005, Southard pled guilty to the Class B Felony of Distribution, Delivery, Manufacture, Production, or Attempt to or Possession with Intent to Distribute, Deliver, Manufacture, or Produce a Controlled Substance, in violation of § 195.211. *State v. Lindsey Vaught*, Stone Co. Cir. Ct., Case No. 39CR060401122. The court suspended imposition of sentence and placed Southard on supervised probation for five years. *Id.*
8. It is inferable, and hereby found as fact, that Southard failed to disclose her pleas of guilty to Possession of a Controlled Substance Except 35 Grams or Less of Marijuana and Distribution, Delivery, Manufacture, Production, or Attempt to or Possession with Intent to Distribute, Deliver, Manufacture, or Produce a Controlled Substance, in the hopes that the Director would remain unaware of her felony guilty pleas within the past fifteen (15) years and issue a license to her notwithstanding the fact that she is disqualified, by virtue of those pleas, from holding a bail bond agent license.

CONCLUSIONS OF LAW

9. Section 374.715.1, RSMo Supp. 2013, provides as follows:

¹ All criminal statutory citations are to that version of RSMo in effect at the time of the commission of the crime.

² Southard was formerly known as Lindsey Vaught.

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.

10. Section 374.750, RSMo 2000, provides as follows:

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.

11. Section 374.755.1, RSMo Supp. 2013, provides, in part, as follows:

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;

(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[.]

12. Missouri Supreme Court Rule 33.17 provides, in part, as follows:

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:

(1) Any felony of this state, any other state, or the United States; or

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

13. "A plea of guilty voluntarily and understandingly made ... admits all of the facts charged[.]" *Robinson v. State*, 491 S.W.2d 314, 315 (Mo. banc 1973).
14. By pleading guilty to Possession of a Controlled Substance Except 35 Grams or Less of Marijuana, in violation of § 195.202, within the past fifteen (15) years (Southard pled guilty in 2005), Southard is disqualified for bail bond agent licensure because she fails to meet the qualifications for sureties as set forth in Missouri Supreme Court Rule 33.17(c)(1) and § 374.715.1, RSMo Supp. 2013. *State v. Lindsey Vaught*, Stone Co. Cir. Ct., Case No. 39CR060401121. 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 Southard a bail bond agent license.
15. By pleading guilty to Distribution, Delivery, Manufacture, Production, or Attempt to or Possession with Intent to Distribute, Deliver, Manufacture, or Produce a

Controlled Substance, in violation of § 195.211, within the past fifteen (15) years (Southard pled guilty in 2005), Southard is disqualified for bail bond agent licensure because she fails to meet the qualifications for sureties as set forth in Missouri Supreme Court Rule 33.17(c)(2) and § 374.715.1, RSMo Supp. 2013. *State v. Lindsey Vaught*, Stone Co. Cir. Ct, Case No. 39CR060401122. 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 Southard a bail bond agent license.

16. The Director may refuse to issue a bail bond agent license to Southard under § 374.755.1(2), RSMo Supp. 2013, because Southard pled guilty within the past fifteen (15) years in a criminal prosecution under any state law for a felony, specifically, Southard pled guilty in March 2005 to Possession of a Controlled Substance Except 35 Grams or Less of Marijuana. *State v. Lindsey Vaught*, Stone Co. Cir. Ct., Case No. 39CR060401121.
17. The Director may refuse to issue a bail bond agent license to Southard under § 374.755.1(2), RSMo Supp. 2013, because Southard pled guilty within the past fifteen (15) years in a criminal prosecution under any state law for a felony, specifically, Southard pled guilty in March 2005 to Distribution, Delivery, Manufacture, or Production or Attempt to or Possession with Intent to Distribute, Deliver, Manufacture, or Produce a Controlled Substance. *State v. Lindsey Vaught*, Stone Co. Cir. Ct., Case No. 39CR060401122.
18. The Director may refuse to issue a bail bond agent license to Southard under § 374.755.1(2), RSMo Supp. 2013, because Southard pled guilty within the past fifteen (15) years in a criminal prosecution under any state law for a crime involving moral turpitude, specifically, Southard pled guilty in March 2005 to Possession of a Controlled Substance Except 35 Grams or Less of Marijuana. *State v. Lindsey Vaught*, Stone Co. Cir. Ct., Case No. 39CR060401121.
19. The Director may refuse to issue a bail bond agent license to Southard under § 374.755.1(2), RSMo Supp. 2013, because Southard pled guilty within the past fifteen (15) years in a criminal prosecution under any state law for a crime involving moral turpitude, specifically, Southard pled guilty in March 2005 to Distribution, Delivery, Manufacture, or Production or Attempt to or Possession with Intent to Distribute, Deliver, Manufacture, or Produce a Controlled Substance. *State v. Lindsey Vaught*, Stone Co. Cir. Ct., Case No. 39CR060401122.
20. Each time Southard pled guilty within the past fifteen (15) years in a criminal prosecution under any state law for a felony or crime of moral turpitude

constitutes separate and sufficient cause for the Director to refuse to issue Southard a bail bond agent license under § 374.755.1(2), RSMo Supp. 2013.

21. The Director may refuse to issue a bail bond agent license to Southard under § 374.755.1(3), RSMo Supp. 2013, because of Southard's use of fraud, deception, misrepresentation or bribery in securing any license, in that Southard failed to disclose on her Application the fact that in March 2005, she pled guilty to Possession of a Controlled Substance Except 35 Grams or Less of Marijuana, in violation of § 195.202. *State v. Lindsey Vaught*, Stone Co. Cir. Ct., Case No. 39CR060401121.
22. The Director may refuse to issue a bail bond agent license to Southard under § 374.755.1(3), RSMo Supp. 2013, because of Southard's use of fraud, deception, misrepresentation or bribery in securing any license, in that Southard failed to disclose on her Application the fact that in March 2005, she pled guilty to Distribution, Delivery, Manufacture, Production or Attempt to or Possession with Intent to Distribute, Deliver, Manufacture, or Produce a Controlled Substance, in violation of § 195.211. *State v. Lindsey Vaught*, Stone Co. Cir. Ct., Case No. 39CR060401122.
23. Each time Southard used fraud, deception, misrepresentation or bribery in securing any license constitutes separate and sufficient cause for the Director to refuse to issue a bail bond agent license to Southard under § 374.755.1(3).
24. The Director may refuse to issue a bail bond agent license to Southard under § 374.755.1(6), RSMo Supp. 2013, because Southard violated a law of this state, specifically § 195.202. *State v. Lindsey Vaught*, Stone Co. Cir. Ct., Case No. 39CR060501121.
25. The Director may refuse to issue a bail bond agent license to Southard under § 374.755.1(6), RSMo Supp. 2013, because Southard violated a law of this state, specifically § 195.211. *State v. Lindsey Vaught*, Stone Co. Cir. Ct., Case No. 39CR060401122.
26. Each of Southard's violations of a law of this state constitutes separate and sufficient cause for the Director to refuse to issue Southard a bail bond agent license under § 374.755.1(6), RSMo Supp. 2013.
27. Under Missouri Supreme Court Rule 33.17(c) and § 374.715.1, RSMo Supp. 2013, Southard is disqualified for a bail bond agent license and, therefore, the Director has no discretion and must refuse to issue a bail bond agent license to Southard.

28. Moreover, the above described instances constitute cause for the Director to refuse to issue a bail bond agent license to Southard. Issuing a bail bond agent license to Southard would not be in the interest of the public.
29. The Director has considered Southard's history and all of the circumstances surrounding Southard's Application. Issuing a bail bond agent to Southard would not be in the interest of the public. The Director refuses to issue a bail bond agent license to Southard because she is disqualified from holding a bail bond agent license. Further, the Director exercises her discretion to refuse to issue Southard a bail bond agent license.
30. This Order is in the public interest.

ORDER

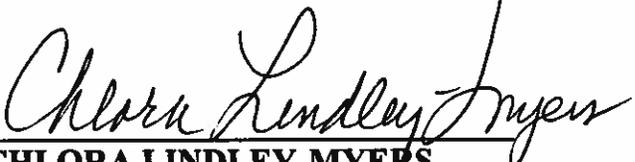
IT IS THEREFORE ORDERED that the bail bond agent license Application of

Lindsey Diane Southard is hereby REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 30th DAY OF March, 2018.




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.

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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of April, 2018, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by United Parcel Service, with signature required, at the following address:

Lindsey Diane Southard
5753 E. Zora Street
Joplin, Missouri 64801

Tracking No. 1Z0R15W84290958294

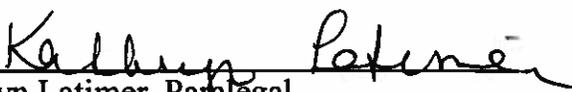

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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of April, 2018, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by United Parcel Service, with signature required, at the following address:

Lindsey Diane Southard
5753 E. Zora Street
Joplin, Missouri 64801

Certified No. 7016 0340 0001 1319 8590



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