



## State of Missouri

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

IN RE:

Tywan A. Poole,

Renewal Applicant.

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Case No. 141024695C

#### ORDER REFUSING TO RENEW BAIL BOND AGENT LICENSE

On November 7, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to renew Tywan A. Poole's bail bond agent license. After reviewing the Petition and the entirety of the file, the Director issues the following findings of fact, conclusions of law, and order.

#### FINDINGS OF FACT

1. Tywan A. Poole ("Poole") is an individual residing at the Bates County Jail, 6 West Fort Scott Street, Butler, Missouri, 64730.
2. The Department of Insurance, Financial Institutions and Professional Registration ("Department") first issued Poole a bail bond agent license on June 16, 2003. The license was subsequently renewed until it expired on June 16, 2009.
3. On or about June 11, 2009, the Department received a Uniform Renewal Application for Bail Bond or Surety Recovery License submitted by Poole ("Application").
4. On October 3, 2014, Poole pled guilty, through a Plea Agreement, to Possession with Intent to Distribute 10 Grams or More of Phencyclidine (PCP), in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B), a Class A Felony, and Being a User of PCP in Possession of a Firearm, in violation of 18 U.S.C. §§ 922(d)(3) and 924(a)(2), a Class C Felony. *United States v. Tywan A. Poole*, U.S.D.Ct., W.D. Mo., No. 13-00031-01-CR-W-FIG.

#### CONCLUSIONS OF LAW

5. Section 374.715.1 RSMo (Supp. 2013),<sup>1</sup> provides, in relevant part:

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

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<sup>1</sup> All statutory references are to the Revised Statutes of Missouri (Supp. 2013) unless otherwise noted.

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.

6. Section 374.755.1 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[.]

7. Section 374.750 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.

8. Supreme Court Rule 33.17 states, in part:

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 or the United States; or

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

9. "Courts invariably find moral turpitude in the violation of narcotic laws." *In re Frick*, 694 S.W.2d 473, 479 (Mo. banc 1985). Specifically, the Missouri Supreme Court has

held that a felony conviction for possession of narcotics is a crime involving moral turpitude. *In re Shunk*, 847 S.W.2d 789, 791-92 (Mo. banc. 1993).

10. "A guilty plea is evidence of the conduct charged and supports a finding in a professional licensing proceeding that the licensee is guilty of such conduct." *Missouri Real Estate Comm'n v. Howell*, No. 07-1388 RE (Mo. Admin. Hrg. Comm'n, April 22, 2008). A plea of guilty to a criminal charge is admissible as an admission against penal interest in any subsequent proceeding against the one who made it, for it is a solemn confession of the truth of the charge, though it is not conclusive and may be explained. *Pruett v. Wilform*, 477 S.W.2d 76, 80 (Mo. 1972).

11. Poole's bail bond agent license may be refused renewal pursuant to § 374.755.1(2), because he pled guilty to two felonies within the past 15 years:

- a. Possession with Intent to Distribute 10 Grams or More of Phencyclidine (PCP), in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B), a Class A Felony;
- b. Being a User of PCP in Possession of a Firearm, in violation of 18 U.S.C. §§ 922(d)(3) and 924(a)(2), a Class C Felony.

*United States v. Tywan A. Poole*, U.S.D.Ct., W.D. Mo., No. 13-00031-01-CR-W-FJG.

12. Poole may also be denied renewal of his bail bond agent license pursuant § 374.755.1(2) because he pled guilty to a crime of moral turpitude; to wit: Possession with Intent to Distribute 10 Grams or More of Phencyclidine (PCP), in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B), a Class A Felony. *Id.*

13. By pleading guilty to two felonies within the last 15 years, Poole is disqualified for licensure because he fails to meet the qualifications for sureties as set forth in Missouri Supreme Court Rule 33.17(c). *United States v. Tywan A. Poole*, U.S.D.Ct., W.D. Mo., No. 13-00031-01-CR-W-FJG. The Director has no discretion when a person does not meet the minimum qualifications of a bail bond agent, and therefore must refuse to renew Poole's bail bond agent license. See *Joyce v. Director of Dep't Ins., Fin. Insts. & Prof'l Reg'n*, 07-1364 DI (Mo. Admin. Hrg. Comm'n July 7, 2008).

14. By pleading guilty to a crime of moral turpitude within the last 15 years, Poole is disqualified for licensure because he fails to meet the qualifications for sureties as set forth in Missouri Supreme Court Rule 33.17(c). *United States v. Tywan A. Poole*, U.S.D.Ct., W.D. Mo., No. 13-00031-01-CR-W-FJG.

15. The Director has considered Poole's history and all of the circumstances surrounding Poole's Application. Renewing Poole's bail bond agent license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to renew Poole's bail bond agent license. Furthermore, pursuant to Mo.S.Ct.R. 33.17(c), Poole is disqualified for a bail bond license, and the Director has no discretion and must refuse to renew Poole's bail bond agent license.

16. This Order is in the public interest.

**ORDER**

**IT IS THEREFORE ORDERED** that the bail bond agent license renewal application of Tywan A. Poole is hereby **REFUSED**.

**SO ORDERED.**

**WITNESS MY HAND THIS** 7<sup>th</sup> **DAY OF NOVEMBER, 2014.**



  
**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 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 7<sup>th</sup> day of November, 2014, a true and accurate copy of the foregoing Order and Notice was served by certified mail, United States Postal Service, electronic tracking and signature required, at the following address:

Tywan A. Poole c/o  
Bates County Sheriff's Office  
Attention: Major Jason A. Lawrence  
6 West Fort Scott Street  
Butler, Missouri 64730

No. 7014 1820 0002 0484 2623

Order and Notice to be personally served upon Poole by the Bates County Sheriff's Office.

  
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