

State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

WARREN ROGERS,

Renewal Applicant.

)
)
) Case No. 14-0729579C
)
)

ORDER REFUSING TO RENEW A BAIL BOND AGENT LICENSE

On November 12, 2014, the Consumer Affairs Division ("Division") submitted a Petition to the Director alleging cause for refusing to renew Warren Rogers' bail bond agent license. 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 order:

FINDINGS OF FACT

1. Warren Rogers ("Rogers") is a Missouri resident; his address of record with the Department is 15911 Highway 68, St. James, MO 65559.
2. The Director of the Department of Insurance, Financial Institutions and Professional Registration (the "Director" of the "Department") first issued Rogers a license to act as a bail bond agent (license #0429096) on November 17, 2008.
3. On November 30, 2010, the Department also licensed Rogers to act as a general bail bond agent. That license had the same number as Rogers' previously issued bail bond agent license.
4. In 2012, the Department began receiving notice from various circuit courts regarding bond forfeiture judgments against Rogers and Warren Rogers Bail Bonding.¹ These various courts entered bond forfeiture judgments in the following cases:
 - a) *State v. Glen Mario Harrison*, St. Louis City Cir. Ct., Case No. 1122-CR02483. On March 1, 2012, the court entered judgment against the surety in the amount of \$10,000.00.
 - b) *State v. James J. McDaniel*, Pulaski Co. Cir. Ct., Case No. 11PU-CR01758. On June

¹ As of October 2014, "Warren Rogers Bail Bonding" is not a corporation registered with the Missouri Secretary of State. "Warren Rogers Bail Bonding" does not hold a business entity bail bond license either.

8, 2012, the court entered judgment against the general bail bond agent in the amount of \$10,000.00.

- c) *State v. Jamar D. Johnson*, Cole Co. Assoc. Cir. Ct., Case No. 12AC-CR00509. On June 29, 2012, the court entered judgment against the surety on the bond in the amount of \$1,000.00.
 - d) *State v. Lucio Alvarado*, Boone Co. Cir. Ct., Case No. 11BA-CR03999. On July 20, 2012, the court filed its judgment noting that the \$500.00 surety bond posted had been forfeited.
 - e) *State v. Sherrice Philipena Patrick*, Cole Co. Assoc. Cir. Ct., Case No. 700294219. On August 16, 2012, the court entered judgment against the surety on the bond in the amount of \$200.00.
 - f) *State v. Amanda Dawn Haynes*, Audrain Co. Cir. Ct., Case No. 05U1-CR01067-01. On August 30, 2012, the court entered judgment against the surety on the bond in the amount of \$10,000.00.
 - g) *State v. Oviron Wells*, Cole Co. Cir. Ct., Case No. 11AC-CR02058-01. On October 22, 2012, the court entered judgment against the surety on the bond in the amount of \$5,000.00.²
5. On January 4, 2013, Department Special Investigator Les Hogue (“Hogue”) contacted Rogers by letter.³ In the letter, Hogue indicated that Rogers was no longer authorized to operate as a general bail bond agent in the state of Missouri as Rogers’ assets had been used under § 374.763, RSMo Supp. 2013,⁴ to satisfy bond a forfeiture judgment. Hogue suggested that Rogers surrender his general bail bond license.
6. On January 7, 2013, Rogers personally delivered a handwritten letter to the Department, indicating that he wanted to have his general bail bond license cancelled, effective that date. The Department approved that request, and Rogers’ general bail bond license was considered surrendered that same day, January 7, 2013.
7. On January 16, 2013, the Circuit Court of the City of St. Louis issued a Duplicate Receipt showing the use of check 7766 for payment of \$10,000.00 for “bond forfeiture” in *State*

² Together, these bond forfeiture judgments in subparagraphs a. through g. total \$36,700.00.

³ Hogue’s letter is actually dated “January 4, 2012.” But based upon the context and the timing of the events discussed in the letter, it appears that the letter was actually from January 2013.

⁴ All further statutory references are to RSMo Supp. 2013 unless otherwise noted.

v. Glen M. Harrison, St. Louis City Cir. Ct., Case No. 1122-CR02483.⁵

8. On February 19, 2013, Rogers, acting as a bail bond agent under the ostensible authority of Ricky L. Adams, wrote a \$2,500.00 bond for defendant Jack Sucic. *See State v. Jack A. Sucic*, Phelps Co. Cir. Ct., Case No. 12PH-CR01785.
9. On February 22, 2013, Hogue sent a letter to Rogers via first class mail, postage prepaid, to his address of record with the Department. With the letter, Hogue included a copy of the Power of Attorney on the Sucic bond and the bond paperwork from the Phelps County Circuit Clerk's Office in Sucic's case. Hogue asked Rogers for a detailed explanation regarding the transaction and provided a due date of March 15, 2013.
10. On March 11, 2013, the Department received a letter from David F. Barrett, counsel for Rogers, inquiring as to the information requested by Hogue.
11. On March 12, 2013, Hogue responded to counsel and clarified that the Phelps County Circuit Court had contacted the Department regarding Rogers' authority to act as a bail bond agent, which, in turn, prompted Hogue's inquiry to Rogers. Hogue extended the response date to April 19, 2013.
12. On or about March 13, 2013, the Department received a letter via fax from Rogers, which included copies of the Power of Attorney and bond paperwork from the Phelps County Circuit Clerk's Office in Sucic's case that Hogue had previously provided. In the letter, Rogers indicated that he was unclear what Hogue wanted by way of response.
13. On or about September 25, 2013, the Department received a letter from Rick Adams ("Adams") with Adams Bail Bonds. In the letter, Adams indicated that Rogers had written a bond on an Adams Bail Bond Power of Attorney, on January 8, 2013, for a defendant named Stanley Johnson. Adams then explained the situation with the Sucic bond as follows:

Shortly after he turned that [bond on Stanley Johnson] in, we received a warning from the Department of Insurance about his standing I called him and told him that he was not permitted to write powers for Adams Bail Bonds until he was cleared by the department to do so. Which was prior to the bond written on 2-14-13 that you submitted with the letter dated 9-4-13, nor has he turned in this power, paperwork, or premium for defendant Jack Sucic.

14. On October 18, 2013, the Department received a "Change of Bail Bond Status" form from Rogers, changing his general bail bond agent to Rick Higgins ("Higgins").

⁵ Under § 374.763, where a final judgment following bond forfeiture is not paid within six months, the court can notify the Department, and the "director shall draw upon the assets of the surety, remit the sum to the court, and obtain a receipt of such sum from the court."

15. On October 23, 2013, Hogue sent a letter to Higgins, noting that Rogers had changed his general bail bond agent to Higgins, and indicating that Rogers had outstanding bond forfeiture judgments against him. Hogue asked Higgins to provide the Department with Rogers' weekly transmittal record and/or remittance form until further notice.
16. On February 6, 2014, Higgins telephoned Hogue and indicated that Rogers had executed a special power of attorney on a defendant named Michael B. Murphy ("Murphy").
17. On February 25, 2014, Higgins hand-delivered a "Notice of Settlement Conference" in *State v. Michael B. Murphy*, St. Louis Co. Cir. Ct., Case No. 13SL-CR06088-01, to the Department. On April 22, 2014, the Department received a certified copy of a power of attorney regarding Murphy from the Circuit Court of St. Louis County. The power of attorney does not have a number.
18. Higgins indicated to Hogue that the type of power of attorney form used in Murphy's case was a form that Higgins only used for bonds over \$25,000.00.⁶ Higgins explained that when such a power of attorney is used, the executing bail bond agent was required to call the office for approval, and a specially issued number would be handwritten on the power of attorney.
19. Higgins indicated that he never received any communication from Rogers before the bond on Murphy was executed. As noted, the power of attorney used for Murphy's bond is not numbered. As of April 2014, Rogers had not notified Higgins in any way about the bond on Murphy.
20. On October 23, 2014, the Department received a "Missouri Uniform Renewal Application for Bail Bond or Surety Recovery License" ("Renewal Application") from Rogers.
21. "Part IV – Applicant Signature" of the Renewal 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.
22. Rogers signed Part IV of the Renewal Application.
23. Question E of "Part III – Background Information" of the Renewal Application asks, in relevant part, as follows:

⁶ Murphy's bond appears to have initially been written for \$20,000.00. It was later changed, to either \$3,500.00 or \$35,000.00; the document is internally inconsistent as to the amended amount.

Do you have any outstanding forfeitures or unsatisfied judgments entered on any bail bond in any court of this state or the United States, or as a bail bond agent, have you written a bond that resulted in an outstanding forfeiture or unsatisfied judgment, or has a surety insurance company refused, revoked or cancelled their power-of-attorney?...

If YES, provide full, written explanation on a separate sheet of paper and any documents related to the matter.

24. Rogers answered "Yes" to Question E.
25. Also in response to Question E, Rogers attached a handwritten document to his Renewal Application that states as follows:

Sun Surety cancelled their power of attorney for lack of production.

I believe I may have an outstanding forfeiture for \$1200.00 in cole county.
To the best of my knowledge all others have been paid or set aside.

26. Rogers' appears to have signed this handwritten document.
27. "Part V – General Instructions" of the Renewal Application sets out various "Instructions Applicable to All Renewal Applicants." Part V also contains a section captioned "Bail Bond Agent Applicants," and indicates that "An applicant must comply with the qualifications established by Supreme Court Rule 33.17."

CONCLUSIONS OF LAW

28. Section 374.702.3 provides:

A licensed bail bond agent shall not execute or issue an appearance bond in this state without holding a valid appointment from a general bail bond agent and without attaching to the appearance bond an executed and prenumbered power of attorney referencing the general bail bond agent or insurer.

29. Section 374.715.1 provides:

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 agents shall not be required to meet the education requirements needed for licensure pursuant to this section.

30. Section 374.715.2 provides:

In addition, each applicant for licensure as a general bail bond agent shall furnish proof satisfactory to the department that the applicant or, if the applicant is a corporation, that each officer thereof has completed at least two years as a bail bond agent, and that the applicant possesses liquid assets of at least ten thousand dollars, along with a duly executed assignment of ten thousand dollars to the state of Missouri. The assignment shall become effective upon the applicant's violating any provision of sections 374.695 to 374.789. The assignment required by this section shall be in the form and executed in the manner prescribed by the department. The director may require by regulation conditions by which additional assignments of assets of the general bail bond agent may occur when the circumstances of the business of the general bail bond agent warrants additional funds. However, such additional funds shall not exceed twenty-five thousand dollars.

31. Section 374.716.1 provides:

Every bail bond agent shall account for each power of attorney assigned by the general bail bond agent on a weekly basis and remit all sums collected and owed to the general bail bond agent pursuant to his or her written contract. The general bail bond agent shall maintain the weekly accounting and remittance records for a period of three years. Such records shall be subject to inspection by the director or his or her designee during regular business hours or at other reasonable times.

32. 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.

33. Section 374.755.1 provides, in 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 more 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;

* * *

(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[.]

34. Section 374.763 provides, in relevant part:

If any final judgment ordering forfeiture of a defendant's bond is not paid within a six-month period of time, the court shall extend the judgment date or notify the department of the failure to satisfy such judgment. The director shall draw upon the assets of the surety, remit the sum to the court, and obtain a receipt of such sum from the court. The director may take action as provided by section 374.755, regarding the license of the surety and any bail bond agents writing upon the surety's liability.

35. Missouri Supreme Court Rule 33.17, regarding "Misdemeanors or Felonies – Bonds – Surety, Individual – Qualifications" provides, in relevant part:

A person shall not be accepted as a surety on any bail bond unless the person:

(a) Is reputable and at least twenty-one years of age;

(b) Has net assets with a value in excess of exemptions at least equal to the amount of the bond that are subject to execution in the state of Missouri;

(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;

(d) Is not a lawyer, except that this disqualification shall not apply if the principal is the spouse, child or family member of the surety;

(e) Is not an elected or appointed official or employee of the State of Missouri or any county or other political subdivision thereof, except that this disqualification shall not apply if the principal is the spouse, child or family member of the surety; and

(f) Has no outstanding forfeiture or unsatisfied judgment thereon entered upon any bail bond in any court of this state or of the United States.

36. Just as the principal purpose of § 375.141, the insurance producer disciplinary statute, is not to punish licensees or applicants but to protect the public, *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984), so, too, the principal purpose of § 374.755 is not to punish licensees or applicants, but to protect the public.
37. Renewal of Rogers' bail bond agent license may be refused under § 374.755.1(3) for use of misrepresentation in securing any license because he misrepresented the extent of the unsatisfied bond forfeiture judgments against him. In his handwritten note attached to his Renewal Application, Rogers asserted that he might have an outstanding forfeiture in Cole County for \$1,200.00, and that any other judgments had either been paid or set aside. This is incorrect. The director has already exhausted Rogers' assignment of \$10,000.00 to the state of Missouri to pay the \$10,000.00 bond forfeiture judgment in *State v. Glen M. Harrison*, St. Louis City Cir. Ct., Case No. 1122-CR02483, upon demand by the City of St. Louis. That leaves \$26,700.00 worth of unsatisfied bond forfeiture judgments in four Missouri jurisdictions still outstanding.⁷
38. Renewal of Rogers' bail bond agent license may be refused under § 374.755.1(5) for incompetence and misconduct because Rogers has repeatedly failed to satisfy bond forfeiture judgments. The director has already exhausted Rogers' assignment of \$10,000.00 to the state of Missouri to pay the \$10,000.00 bond forfeiture judgment in *State v. Glen M. Harrison*, St. Louis City Cir. Ct., Case No. 1122-CR02483, upon

⁷ Bond forfeiture judgments are still outstanding in Pulaski, Cole, Boone and Audrain Counties.

demand by the City of St. Louis. That leaves \$26,700.00 worth of unsatisfied bond forfeiture judgments in four Missouri jurisdictions still outstanding. Rogers' failure to satisfy bond forfeiture judgments demonstrates incompetence and misconduct.

39. Each failure to satisfy a bond forfeiture judgment constitutes separate and sufficient cause to refuse to renew Rogers' bail bond agent license under § 374.755.1(5) for incompetence and misconduct.
40. Renewal of Rogers' bail bond agent license may also be refused under § 374.755.1(5) for misappropriation of premium because Rogers did not turn in the power of attorney, paperwork and, most notably, the premium on the Sucic bond in Phelps County to Rick Adams, the general bail bond agent. Rogers' failure to turn in the premium to the general bail bond agent, Adams, constitutes misappropriation.
41. Renewal of Rogers' bail bond agent license may be refused under § 374.755.1(6) for violating a law of this state, § 374.716.1, because Rogers did not account for each power of attorney assigned by the general bail bond agent on a weekly basis and remit all sums collected and owed to the general bail bond agent pursuant to his or her written contract, in that Rogers did not turn in the power of attorney, paperwork, and premium on the Sucic bond in Phelps County to Rick Adams, the general bail bond agent.
42. Renewal of Rogers' bail bond agent license may be refused under § 374.755.1(6) for violating a law of this state, § 374.702.3, because Rogers failed to attach a prenumbered power of attorney to the appearance bond in the Murphy case. Rogers filled out a Rick L. Higgins Power of Attorney on the Murphy bond, but the certified copy of that power of attorney from the St. Louis County Circuit Court bears no number. *State v. Michael B. Murphy*, St. Louis Co. Cir. Ct., Case No. 13SL-CR06088-01. Higgins advised Hogue that Rogers used a form for the Murphy Bond that required bail bond agents to call the office and obtain a number for the power of attorney. Higgins indicated that Rogers did not notify him about the Murphy Power of Attorney at all, much less call in order to obtain a number for the Murphy Power of Attorney.
43. The above described instances are grounds upon which the Director may refuse to renew Rogers' bail bond agent license. While he is no longer a general bail bond agent, having surrendered that license, Rogers seeks to renew his bail bond agent license, even though he still has several outstanding bond forfeiture judgments against him. As noted, in his Renewal Application, Rogers misrepresented the extent of the unsatisfied forfeiture judgments against him. Further, such unsatisfied judgments demonstrate both incompetence and misconduct.
44. Rogers is disqualified for licensure as a bail bond agent because he fails to meet the qualifications for sureties as set forth in Missouri Supreme Court Rule 33.17(f). Rogers has \$26,700 of unsatisfied judgments for four (4) bail bonds in four (4) separate counties in Missouri. By his own admission with his Renewal Application, signed under penalty of perjury, he has "an outstanding forfeiture for \$1,200.00 in cole county."

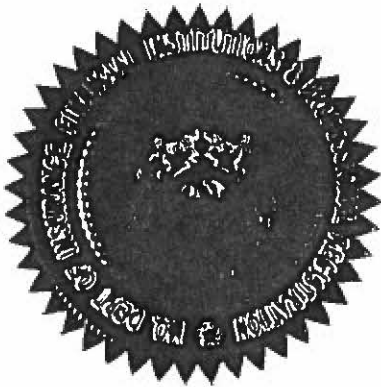
45. Because Rogers fails to meet the qualifications for sureties as set forth in Missouri Supreme Court Rule 33.17(f), the Director has no discretion and therefore must refuse to renew Rogers' bail bond agent license. *See Joyce v. Director of Dep't of Ins., Fin. Insts. and Prof'l Reg'n*, 07-1364 DI (Mo. Admin. Hrg. Comm'n Jul. 7, 2008).
46. The Director has considered Rogers' history and all of the circumstances surrounding Rogers' Renewal Application. Renewing Rogers' bail bond agent license would not be in the public interest. Furthermore, pursuant to Missouri Supreme Court Rule 33.17(f), Rogers is disqualified for a bail bond agent license and the Director has no discretion and must refuse to renew Rogers' bail bond agent license.
47. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the bail bond agent license renewal application of Warren Rogers is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 13th **DAY OF NOVEMBER, 2014.**




JOHN M. HUFF
DIRECTOR

NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

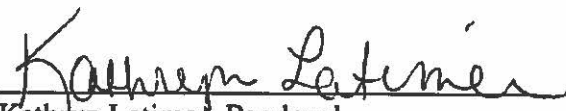
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 13th day of November, 2014, a copy of the foregoing Order and Notice was served upon the Renewal Applicant in this matter by UPS, with signature required, at the following address:

Warren Rogers
15911 Highway 68
St. James, Missouri 65559

Tracking No. 1Z0R15W84291720681


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