

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

FILED

SEP 17 2008

INSURANCE COMMISSIONER
OKLAHOMA

IN RE: The Application of ROCHELLE SMITH for a)
Bail Bond License in the State of Oklahoma.) Case No. 08-0871-DEN
)

ADMINISTRATIVE ORDER

ON the 18th day of June, 2008 the above numbered and entitled cause came on for hearing and was concluded on the same date. The Insurance Commissioner, Kim Holland, was represented by her attorney, Sandra G. LaVenue. Applicant Rochelle Smith (hereafter Applicant) was present after having been mailed a copy of the Notice of Hearing and Order to Show Cause by certified mail with return receipt requested pursuant to the Oklahoma Bail Bond Code, 59 O.S. §§1301-1340, and the Oklahoma Administrative Procedures Act, 75 O.S. §§250-323.

The Hearing Examiner, having been fully advised in the premises, finds by clear and convincing evidence as follows:

JURISDICTION AND AUTHORITY

1. That the Insurance Commissioner has jurisdiction of this cause, pursuant to the provisions of the Oklahoma Bail Bond Code, 59 O.S. §§1301-1340.

STIPULATIONS OF FACT

1. Applicant was a licensed bail bondsman in the State of Oklahoma, holding license number 800363/200081. Applicant's license was subsequently revoked by the Insurance Commissioner on April 26, 2006, because she was married to a deputy sheriff and found to be in violation of 59 O.S. § 1315(A)(7). Applicant appealed the Administrative Order pursuant to the Administrative Procedures Act and the Oklahoma Insurance Code. The Oklahoma Court of Civil Appeals upheld the Administrative Order on May 23, 2008.

2. On or about June 3, 2008, Applicant notified the Oklahoma Insurance Department (“OID”) that her husband was no longer employed as a deputy sheriff and that the reason for the revocation of her license no longer existed. Applicant subsequently filed an application for a bail bond license and requested a hearing pursuant to 59 O.S. § 1311.2(A).

3. Pursuant to Applicant’s request, OID, through its attorney, Sandra G. LaVenu filed a *Notice of Hearing and Order to Show Cause* setting the matter for hearing. The *Notice of Hearing and Order to Show Cause* contained statements of jurisdiction, allegations of fact and an order setting the proceedings for June 18, 2008, at 9:30 a.m. at the office of the Insurance Commissioner, 2401 N.W. 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

4. Applicant waived her right to have counsel present to represent her.

5. Applicant waived her right to reasonable service and requested the hearing be set as soon as possible.

6. The Insurance Commissioner appointed Leslie L. Conner, Jr. to hear the case as the independent Hearing Examiner and he entered these findings and conclusions of law.

7. The Hearing was recorded electronically by the employees of the Oklahoma Insurance Department. Neither party requested a full stenographic record of the proceedings.

8. The following exhibit was introduced and admitted without objection:

OID’s Exhibit P-1: (3 pages) Copy of Defense Finance and Account Service Military Leave and Earnings Statement for Kelly Dru Smith. A copy of a letter dated May 29, 2008, from Bill Winchester, Sheriff of the Garfield County Sheriff’s Office regarding the employment status of Kelly Smith and a copy of a letter from Rochelle Smith addressed to the Petitioner regarding the employment of her husband, Kelly Dru Smith.

9. Applicant and Oklahoma Insurance Department’s Bail Bond Division Director, Robert Noll were sworn in and testified under oath.

10. Applicant requested OID to waive the one year waiting period in 59 O.S. § 1311.2(A). OID did not object to the request.

11. Applicant requested that the Examination requirement set forth in 59 O.S. § 1308 and all corresponding fees be waived.

12. Applicant requested that the education requirements required by 59 O.S. § 1308(1) be waived.

CONCLUSIONS OF LAW

1. These proceedings were commenced in accordance with and conducted pursuant to the applicable provisions of the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250-323, as amended, and the Oklahoma Bail Bond Code, 59 O.S. §§ 1301-1340 as amended.

2. The Commissioner has jurisdiction to conduct this hearing as the Applicant filed an application with the Bail Bond Division pursuant to 59 O.S. § 1311.2.

3. Applicant was provided lawful service and notice of the time and place of the hearing as required by 75 O.S. § 309, as amended and 59 O.S. § 1311, as amended.

4. The Independent Hearing Examiner was properly and legally appointed pursuant to 59 O.S. § 1311.1(B).

5. Applicant's request for a waiver of the one-year waiting period pursuant to 59 O.S. § 1311.2(A) is hereby granted.

6. Applicant's pre-licensing education courses previously attended by Applicant remain valid. Therefore, Applicant will not be required to repeat the pre-licensing education courses set forth in 59 O.S. § 1308(1).

7. Applicant has taken and passed the examination and the results are still valid. Therefore, Applicant will not be required to retake the examination required in 59 O.S. § 1308 and all corresponding fees are waived.

8. Applicant's request for waiver of the FBI and OSBI processing fees is granted and all associated fees are waived.

9. Applicant's request for a waiver of the application fee is hereby denied. Respondent has submitted a new application, as such; she is required to pay the fee.

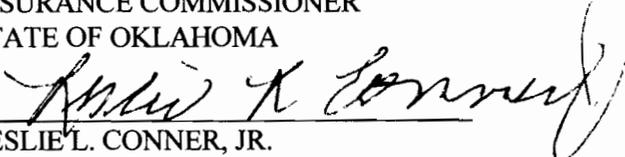
ORDER

IT IS THEREFORE ORDERED that OID is hereby ordered to issue Applicant a temporary license immediately. Applicant's license shall remain a temporary license until the OSBI and FBI criminal checks are returned. Applicant's permanent license shall be issued when an acceptable OSBI and FBI report are received by the Bail Bond Division. Applicant's temporary and permanent license is subject to all provisions of the Oklahoma Bail Bond Code, 59 O.S. § 1301 et seq.

IT IS FURTHER ORDERED Applicant is ordered to report to Assistant General Counsel Sandra LaVenue if Applicant's husband, Kelly Dru Smith, returns to a position with any law enforcement agency. If it is determined that Kelly Dru Smith has once again become a person or class prohibited from receiving a direct or indirect benefit from any bail bond transaction in the State of Oklahoma, Applicant's license will be immediately revoked.

WITNESS My Hand and Official Seal this 17th day of Sept, 2008.

KIM HOLLAND
INSURANCE COMMISSIONER
STATE OF OKLAHOMA



LESLIE L. CONNER, JR.
Hearing Examiner
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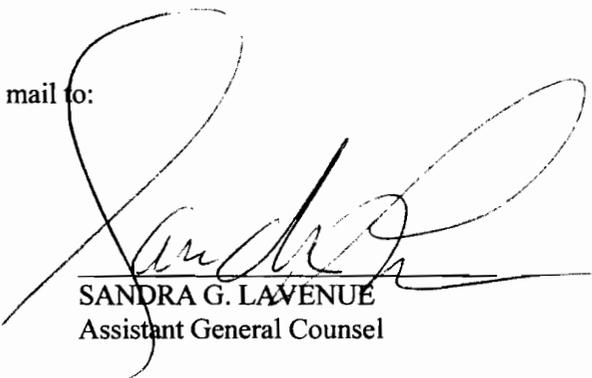
CERTIFICATE OF MAILING

I, Sandra G. LaVenue, hereby certify that a true and correct copy of the above and foregoing Administrative Order was mailed postage prepaid with return receipt requested on this 17 day of Sept, 2008, to:

Rochelle Smith
2110 N. Grand
Enid, Oklahoma 73701

and that a copy was delivered by electronic mail to:

Robert H. Noll, Director
Bail Bond Division



SANDRA G. LAVENUE
Assistant General Counsel