

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

FILED

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In Re: The Application of JACK EDWARD)
HIGHERS for a Bail Bond License in the) Case No. 08-1002-DEN
State of Oklahoma.)
INSURANCE COMMISSIONER
OKLAHOMA

ADMINISTRATIVE ORDER

ON THE 10th day of September, 2008, the above numbered and entitled cause came up for hearing upon Jack Highers' (hereinafter "Applicant") June 25, 2008, request for hearing regarding the March 27, 2008, denial of Applicant's bail bond license. The Insurance Commissioner, Kim Holland, was represented by her attorney, Sandra G. LaVenue. Applicant appeared in person and by counsel, Wesley E. Combs, after requesting a hearing on June 25, 2008, and receiving Notice of Hearing and Order to Show Cause 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 a preponderance of the evidence as follows:

JURISDICTION AND AUTHORITY

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

2. Applicant previously held a bail bond license which was revoked on February 12, 2003. Applicant subsequently applied for another bail bond license on

November 29, 2007, pursuant to the provisions of 59 O.S. §§ 1303, 1305 and 1311.2.

3. Applicant's application was denied on March 27, 2008.

4. Applicant requested a hearing on June 25, 2008, regarding the denial of his bail bond license pursuant to OAC 365:1-7-1.

FINDINGS OF FACT

1. On or about July 24, 2008, the Commissioner, through her attorney, caused to be mailed a *Notice of Hearing and Order to Show Cause* to Applicant's attorney pursuant to Applicant's request.

2. The *Notice of Hearing and Order to Show Cause* contained statements of jurisdiction, allegations of fact, alleged violations of law and an order setting the proceedings for August 30, 2008, at 9:30 a.m. at the office of the Insurance Commissioner, 2401 N.W. 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

3. On or about July 24, 2008, the Commissioner through her attorney, caused to be mailed an *Amended Notice of Hearing and Order to Show Cause* to Applicant's attorney.

4. The *Amended Notice of Hearing and Order to Show Cause* contained statements of jurisdiction, allegations of fact, alleged violations of law in support of the Bail Bond Division's decision to deny Applicant's bail bond license and also an order setting the proceedings for August 30, 2008, at 9:30 a.m. at the office of the Insurance Commissioner, 2401 N.W. 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

5. Pursuant to an agreement of the parties, the above styled case was continued and set to be heard on September 10, 2008.

6. The Commissioner appointed Leamon Freeman to hear the case as the independent Hearing Examiner and he entered these findings and conclusions.

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

9 The Rule of Sequestration was invoked. As a result, all possible witnesses were excused from the hearing except for Sherry Standerfer. Respondent had no objection to Sherry Standerfer remaining in the room for purposes of taping the hearing. Robert Noll also remained as the Oklahoma Insurance Department's Representative.

10. Both parties agreed to stipulate to the following:

- a. Applicant was a licensed bail bondsman in the State of Oklahoma.
- b. Applicant's previous bail bond license was revoked by the State of Oklahoma on or about February 12, 2003.
- c. Applicant currently owes the Oklahoma Insurance Department a total of Five Thousand Three Hundred Fifty (\$5,350.00) in unpaid fines and costs.

11. Robert Noll, Sherry Standerfer, Gloria Highers, Jack Highers and Beverly Langston were sworn as witnesses and testified under oath. Applicant objected to the testimony of Beverly Langston. Said objection was sustained.

12. The Oklahoma Insurance Department presented the following exhibits for admission:

P-1: (6 pages) Application of Jack Edward Highers for a bail bond license received by Petitioner on November 29, 2007.

P-2: (2 pages) Letter dated August 23, 2005, from John David Luton, then

District Attorney of Muskogee County, regarding Jack Edward Highers.

P-3: (1 page) Letter dated March 27, 2008, from Robert Noll to Jack Highers regarding the Oklahoma Insurance Department's decision to deny his application for a bail bond license.

P-4: (2 page) E-mail dated March 20, 2008, from Sherry Standerfer to Robert Noll regarding Jack Edward "Bo" Highers' outstanding fines and costs.

P-5: (97 pages) Previous Oklahoma Insurance Department Orders regarding Applicant, issued by Oklahoma Insurance Department in the following cases:

(5 pages) Administrative Order issued on August 16, 2002, in Case Number 02-0710-DIS, State v. Jack Edward Highers.

(7 pages) Administrative Order issued on February 12, 2003, in Case Number 02-0983-DIS, State v. Jack Edward Highers.

(9 pages) Administrative Order issued on February 12, 2003, in Case Number 02-0980-DIS, State v. Jack Edward Highers.

(5 pages) Notice of Hearing and Order to Show Cause issued on March 25, 2003, in Case Number 02-1330-DIS, State v. Jack Edward Highers.

(6 pages) Notice of Hearing and Order to Show Cause issued on March 25 2003, in case number 03-0083-DIS, State v. Jack Highers.

(6 pages) Notice of Hearing and Order to Show Cause issued on April 4, 2003, in Case Number 02-1486-DIS, State v. Jack Edward Highers.

(6 pages) Conditional Administrative Order and Notice of Right to Be Heard issued on April 22, 2003, in case number 02-1620-DIS, State v. Jack Edward Highers.

(3 pages) Order Continuing Matter to Date to Be Determined by the Hearing Examiner issued on May 22, 2003, in Case Number 02-1330-DIS, State v. Jack Edward Highers.

(4 pages) Order Continuing the Matter to Date to Be Determined by the Hearing Examiner issued on June 10, 2003, in Case Number 02-1486-DIS, State v. Jack Edward Highers.

(4 pages) Order Continuing Matter to Date to Be Determined by the Hearing Examiner issued on June 10, 2003, in case number 03-0083-DIS, State v. Jack Edward Highers.

(10 pages) Final Administrative Order issued on July 31, 2003, in Case Number 02-1618-DIS, State v. Jack Edward Highers.

(5 pages) Conditional Administrative Order and Notice of Right to Be Heard issued on September 23, 2003, in case number 03-0707-DIS, State v. Jack Highers.

(8 pages) Conditional Administrative Order and Notice of Right to Be Heard issued on September 23, 2003, in case number 03-0706-DIS, State v. Jack Highers.

(11 pages) Final Administrative Order issued on December 1, 2003, in case number 03-0373-DIS, State v. Jack Edward Highers.

(4 pages) Administrative Minute issued on March 25, 2004, in case number 03-0707-DIS, State v. Jack Highers.

(4 pages) Administrative Minute issued on March 25, 2004, in case number 03-0706-DIS, State v. Jack Highers.

P-6: (6 pages) Administrative History of Jack Highers

P-7: (2 pages) Deferment issued on October 24, 2003, in Delaware County District Court CF-2003-62, The State of Oklahoma v. Jack Edward Highers, Jr.

P-8: (1 page) Order of Dismissal After Deferred Judgment issued on October 20, 2005, in CF-2003-62, The State of Oklahoma v. Jack Edward Highers, Jr.

P-9: (1 page) Forfeiture information regarding bonds written by Jack "Bo" Highers for Ranger Insurance Company.

13. Applicant objected to the admittance of exhibits P-2 and P-9. Applicant's objection was sustained and these documents were not admitted into evidence.

14. All other exhibits were admitted as evidence.

15. Applicant testified that he had never been charged with a crime in relation to his actions as a bail bondsman.

16. Applicant later testified that he in fact had been charged with a crime and pled guilty to the crime and paid restitution; Applicant also stated that the criminal action was later dismissed and his record expunged.

17. Applicant testified that he knew he had fines and costs owing to the Oklahoma Insurance Department and submitted his Application prior to these fines and costs being paid.

18. Applicant also testified that he took Fifteen Thousand and No/100 dollars (\$15,000.00) as collateral for a bond in Muskogee County. Applicant further testified that he did not return the collateral to the defendant upon final termination of the criminal case, pursuant to 59 O.S. § 1310(A)(19). Applicant testified that he did not return the collateral until criminal charges were filed against him for unlawfully

withholding the collateral.

19. Applicant's Application stated that he had never been convicted; pled no contest; or pled guilty to a felony. Applicant's Application was submitted by affidavit attesting to the veracity of the information provided.

20. Applicant testified that he previously did not appear at hearings before the Insurance Commission; failed to file timely reports and failed to pay reviewal fees in accordance with the Oklahoma Bail Bond Code.

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 pursuant to OAC 365:1-1-2 and 365:1-7-1 in that Applicant filed an Application for a bail bond license which was subsequently denied pursuant to the provisions set forth in 59 O.S. §§ 1301-1340, as amended.

3. Applicant requested a hearing and was provided adequate notice of the time and place of the hearing and was sufficiently advised of the reasons for the denial of his Application as required by 75 O.S. § 309.

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

5. Applicant was untruthful in answering question number three (3) on his

application for a bail bond license in that he stated that he had never pled guilty to a felony and then later testified under oath that he entered into a deferred sentence in Delaware County District Court case number CF-2003-62 upon a plea of guilty; which is in violation of 59 O.S. § 1310(A)(1), (3) and (5).

6. Applicant was aware that he had outstanding fines and costs owing to the Oklahoma Insurance Department prior to filing his Bail Bond Application. The previous Oklahoma Insurance Department Administrative Orders specifically stated that all fines and costs were to be paid prior to any application being submitted to the Oklahoma Insurance Department. Applicant's Application was submitted prior to all fines and costs being paid.

7. While the criminal case was ultimately dismissed by the Delaware County District Court, Applicant admitted that he kept money that did not belong to him which indicates that Applicant is not honest and truthful in violation of 59 O.S. § 1310(A)(1) and not of good character and reputation as required by 59 O.S. § 1305(2).

8. Applicant admitted to taking Fifteen Thousand and No/100 dollars (\$15,000.00) as collateral for a bond in Muskogee County and that he did not return the collateral to the defendant upon final termination of the criminal case in violation of 59 O.S. § 1310(A)(19) and 59 O.S. § 1314(A)(2).

9. Applicant failed to show that the circumstances for which his license was previously revoked no longer existed and as such, has failed to meet the requirements for licensure pursuant to 59 O.S. § 1311.2.

ORDER

1. IT IS THEREFORE ORDERED that the Oklahoma Insurance Department's decision to deny Applicant's application for a bail bond license is hereby upheld.

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



KIM HOLLAND
INSURANCE COMMISSIONER
STATE OF OKLAHOMA

A handwritten signature in black ink, appearing to read "Leamon Freeman", written over a horizontal line.

LEAMON FREEMAN
Hearing Examiner
Post Office Box 53408
Oklahoma City, Oklahoma 73152-3408
(405) 521-2746

CERTIFICATE OF MAILING

I, Sherry M. Standerfer, 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 17th day of November, 2008, to:

Wesley E. Combs, Esq.
218 S Muskogee Avenue,
Tahlequah, Oklahoma 74464

and that a copy was delivered via electronic mail to:

Robert H. Noll, Director
Bail Bond Division


SHERRY M. STANDERFER
Legal Assistant