

**ARKANSAS PROFESSIONAL BAIL BOND COMPANY AND PROFESSIONAL
BAIL BONDSMAN LICENSING BOARD
December 10, 2004**

Chairman Don Smith called the meeting to order at 9:00 a.m.

Roll call was taken. The following members were present: Rex Morris, Frank Sturgeon, Phyllis Carruth, Don Smith, Xollie Duncan, Eugene Reynolds and Marc Oudin. Also present were Assistant Attorney General, Kevin Coker, Executive Director, Tommy Reed, Board staff and members of the audience.

Following a review of the Board Minutes for November 12, 2004, Ms. Duncan noted the minutes did not record her presence; therefore, she offered an addition to the minutes to reflect her attendance. Mr. Reed apologized for the oversight. Mr. Sturgeon moved to approve the minutes as corrected. Mr. Oudin seconded. The motion carried.

OLD BUSINESS

License Approvals:

Two (2) non-controversial license applications and three (3) non-controversial tentative license applications were submitted for Board approval. Mr. Oudin moved to approve the license applications as presented, pending receipt of necessary documentation. Mr. Sturgeon seconded. Chairman Smith asked for comments or discussion. Hearing none, the motion was put to a vote. The motion carried.

Transfers:

The list of transferring agents was provided for the Board's information. Chairman Smith invited comments or discussion. Mr. Reynolds noted his resentment of transfer without any records concerning the agent's forfeiture history being presented for the Board's scrutiny at the time of transfer. After discussion, the Board proceeded.

Forfeitures:

The Forfeiture Report was presented and the Board's approval to suspend those licensees who failed to pay forfeitures timely between December 10, 2004 and January 15, 2005 was requested. Mr. Oudin moved to suspend those licensees whose forfeitures were not timely paid between December 10, 2004 and January 15, 2005. Mr. Sturgeon seconded. Chairman Smith invited comments or discussion; there were none and the motion was put to a vote. The motion carried.

Past Due Forfeitures:

The Past Due Forfeiture Report was presented for the Board's review. Chairman Smith asked for comments or discussion. Mr. Reed called the Board's attention to five Will Oliver/Liz Frawley Bail Bonds, Inc. forfeitures from Benton County Circuit Court with due dates of December 01, 2004. He advised that these judgments recited an installment payment plan with the balance due and payable on or before December 01, 2004. He noted he had sought information from the prosecuting attorney's office concerning whether the judgments had been satisfied but had received no response. He stated it was his opinion he could not pay the judgments unless and until the court entered an order directing the sums were due and payable. Ms. Duncan noted there had been a recent change of prosecutors, which might account for some delay in a response or paperwork. There were no further comments or discussion and the Board moved to the next item of business.

Transfers: Attorney General Opinion #2004-288

Attorney General Opinion #2004-288 concerning agent transfers was presented for the Board's use and information. Mr. Morris expressed his strong opinion that the policy expressed in the opinion left "companies out in the cold." He stated he and others "had a problem with it." Legislation was suggested as the answer to the problems. Mr. Reed invited suggestions and assistance in putting together a legislative response. Mr. Reynolds agreed with Mr. Morris and noted that "some of these agents have extensive records as far as not turning in money, hiding their powers . . . and they can just transfer." Mr. Sturgeon noted that in such a case a company could file a complaint and "pull their license." He and others agreed they could not understand why companies would hire agents with such histories and that if they did so and got "ripped off" they deserved it. Mr. Reynolds agreed but noted that many times companies do not know the record of the agent prior to hiring them. It was suggested it was the responsibility of the hiring company to do its background check and bear the consequences if they acted without sufficient information. Ms. Carruth suggested a company needed a little time to do that.

NEW BUSINESS

November Vouchers Paid:

Chairman Smith invited questions and/or discussion regarding the vouchers paid in November. There being none, the Board proceeded.

Bail Bond Education program approval:

1. The Arkansas Professional Bail Bond Association presented its 2005 proposed education program for approval. Wanda Cox appeared and advised the Board that the only change from the 2004 proposal was: If the APBBA furnishes the meeting room, instructor and literature the cost would be \$200 per participant. If a bond company guarantees attendance of 10 or more (from one or more companies), provides the meeting room (at a location other than the company), provides the instructor and literature, the APBA would provide a supervisor to oversee and monitor the class and furnish the CE diploma at a cost of \$100 per agent.
2. The Real Estate Institute presented its 2005 proposed education program for approval. Ronnie Minnick was present and advised the Board there were no material changes to his proposed program. He introduced Laurence W. Flaxman as his new associate and distributed Mr. Flaxman's resume' to the Board.

Mr. Sturgeon moved that the programs be approved as presented. Mr. Reynolds seconded. Chairman Smith invited questions and/or discussion regarding the proposed education programs. Hearing none, the motion was put to a vote and carried unanimously.

2005 Legislative Session:

A summary of bills currently filed for the 85th Legislative Session beginning January 10 was presented. Mr. Reed advised that none of the currently filed bills affected bail bonds, but that he would monitor the session daily and keep the Board aware of legislation affecting the bail bond industry.

Mr. Morris commented that Sheriff Larry Mills, who appeared before the Board at the November meeting, indicated the Sheriff's Association was working on legislation. Chairman Smith confirmed this was the case, although he did not have particulars at this time. Chairman Smith said an example of legislation the Sheriff's were considering would be requiring that a percentage of the face amount of a bond be paid prior to the defendant's release. He indicated the Board

would be provided a copy of any such legislation prior to its introduction. Mr. Sturgeon and Mr. Morris indicated agreement that something addressing this issue should be done.

Mr. Coker, Deputy AG, advised he was a member of a legislative monitoring team and would notify the Board of any proposed legislation affecting bail bonds, agents or companies.

Rule and Regulation 2 of the Bail Bond Business:

Ms. Carruth introduced a matter of new business concerning the status of Rule and Regulation 2. She pointed out that the rule had not been published in the latest publication of the Rules and Regulation. She referred to Rule 2, Section 8 and inquired as to why that section and rule had not been published. Mr. Reed advised that his research indicated that in August of 2002, the Board voted to transfer responsibility for the bail bond education programs from the Private Career Education Board to the Board.

He explained that in May, 2004 when he assumed the position of Executive Director he was advised the Rules and Regulations had not been published since January 1, 2002 but had been revised since that time (see above). He noted that he found where in May 2003, Ms. Longstreth, his predecessor, had transmitted Rule and Regulation 1, as amended, to the State Library as required. He referenced a memo from Ms. Longstreth to the State Library advising that changes to Rule 2 would not be extensive and would be sent under separate cover. He said he could not find where Rule 2 had been transmitted to the State Library.

He advised he accepted responsibility for leaving Rule 2 out of the current publication of the Rules and Regulations, stating it was his opinion, at the time, Rule 2 had effectively been nullified by the Board's action of August, 2002, based upon the stated purpose of Rule 2, Section 1, "to set specific requirements to be followed by the Arkansas State Board of Private Career Education in the administration of the beginning and continuing education program, pursuant to Act 909 of 1997, codified as Ark. Code Ann. §17-19-107, and §17-19-402."

He advised he had no explanation why nothing had been done relative to changes to Rule 2 and why the Rules had not been published prior to his arrival in May 2004. Tom Nickolich explained that Rule 2 had been amended to remove "Career Education" and insert "Board" in its place, but that Rule 2 had not been deleted. Mr. Oudin expressed concern that such matters should be researched and prepared prior to being brought before the Board so that everyone would be prepared to discuss the matter.

Ms. Carruth inquired of Mr. Reed whether, since he had removed Rule 2, Section 8, paragraph E, which prohibits re-licensing any agent who failed to complete 8 hours of continuing education, he had re-licensed any such agents. Mr. Reed advised he had had discussions with some agents who had not completed the continuing education or who had received beginning education in 2003 and been licensed in 2004 but had not completed continuing education in 2004. He advised the Board he had considered each agent's circumstances and had tentatively advised them they must complete two such courses in 2005. Mr. Reed explained his reasoning in granting such waivers and advised he would comply with the Board's directions.

Mr. Oudin commented that this issue comes before the Board every year and that the rule is clear – if the agent does not complete continuing education in a calendar year; no license is to be issued until they complete the continuing education. There was considerable discussion of the issue, with the result being that any agent who fails to complete 8 hours of continuing education in the calendar year shall not be re-licensed in the following year unless and until the agent completes a continuing education class in that year (in accord with Rule 2, Section 8, paragraph E.).

Additionally, the Board directed that, as to new agents, the beginning education must be completed in the year in which the agent is licensed; otherwise the agent must complete the continuing education requirement in his first year of licensure.

Update of matters on appeal:

In the Matter of: Jamie Mann/Ron Marshall & Affordable Bail Bonds, APBBLB #97-044. Deputy AG, Coker, advised the Board that on December 1, 2004 the Court of Appeals had affirmed the Pulaski County Circuit Court's decision affirming the Board's September 18, 2000 finding that Jamie Mann had violated Ark. Code Ann. §17-19-210(a)(3) but modifying the Board's penalty of license revocation to a one-year suspension.

Mr. Reed advised the Board that Ron Marshall, owner of Affordable Bail Bonds, had contacted him upon learning of the Court of Appeals decision and advised him of a consent decree entered between the parties in which the Respondent agent and company agreed to, and did, pay \$1,000 each and, in return, the Board agreed to dismiss the complaint but retained jurisdiction to carry out the terms of the agreement. Mr. Reed located the consent agreement and receipts for the sums paid by Respondents. Mr. Marshall inquired of Mr. Reed how the Court of Appeals decision affected the agent and company in view of the consent agreement terms.

Mr. Reed advised the Board the Court of Appeals decision and the consent agreement were in conflict and requested guidance in the matter. Judge Duncan commented that, perhaps, the consent agreement should be rewritten to reflect the parties' agreement, notwithstanding the Court of Appeals decision.

In the Matter of: Louisa Torres v. Stan Wood/Will Oliver-Liz Frawley Bail Bonds, Inc., APBBLB #02-021 Mr. Reed advised the Board the Pulaski County Circuit Court, Seventh Division had found the Board's sanctions against the Respondents were not supported by substantial evidence and had dismissed the matter on February 20, 2004.

Public Comments:

Chairman Smith opened the floor for public comments. Tom Nickolich was recognized and advised the Board that on Monday, November 29, 2004 "at the end of the day" Mr. Reed had issued a suspension of Exit Bail Bonds, Inc., on a "forfeiture that had already been paid." Mr. Nickolich stated that the next morning at 8:00 a.m. he called the Board office and "sent the receipt down. My people messed up." Mr. Nickolich gave the Board an estimate of the amount of time and phone calls Mr. Reed made to both suspend his company and subsequently reinstate the company. He requested the Board direct Mr. Reed to call either the bond company or the court to determine whether the judgment had been satisfied prior to suspending a company. Ms. Carruth expressed the opinion that making such phone calls prior to suspension would be "more cost efficient." Ms. Duncan, Mr. Smith and Mr. Sturgeon expressed their opinion it was the company's responsibility to timely notify the Board and provide proof of satisfaction or other disposition of judgments presented to the Board for collection. The Board declined to direct Mr. Reed as requested.

Mr. Nickolich then commented regarding the continuing education issue addressed by the Board earlier on the agenda. He next commented regarding the upcoming legislative session and the need for the Board and the Bail Bond Association to communicate. Mr. Oudin agreed and added that the Sheriff's Association and others should be consulted also. There was some discussion of certain legislative issues. Mr. Oudin indicated Mr. Reed should contact the Bail Bond Association for that purpose. Mr. Reed advised he already done so and meetings would be scheduled.

Wanda Cox was recognized and commented that at the November Board meeting a forfeiture for Bobby Cox Bail Bonds appeared on the past due list even though proof it had been paid had been supplied to the Executive Director. She noted no suspension had been issued but wanted the point made that the Board sometimes was given proof of satisfaction but did not remove the company from the forfeiture list. Mr. Reed pointed out that the November Board meeting occurred the day after a state holiday and that the forfeiture list had been prepared on the Wednesday preceding Friday's meeting and he had not had an opportunity to remove the judgment prior to the Board meeting.

There being no further public comments, the meeting was adjourned to hearings. Upon conclusion of the hearings, Judge Duncan announced she had accepted an appointment to the State Crime Lab Board and that she was resigning her position on the Bail Bond Licensing Board effective Monday, December 13, 2004.

Submitted for approval:

This 14th day of January, 2005 _____
Don Smith, Chairman