

STATE OF INDIANA)
) SS:
COUNTY OF MARION) COMMISSIONER OF INSURANCE

CAUSE NO.: 10472-BB11-0811-008

IN THE MATTER OF:)

Richard L. Cearing)
Respondent/Bail Agent)

1199 Hospital Road, Lot 128)
Franklin, IN 46131)

Type of Agency Action: Bail Agent Enforcement
Indiana Bail Agent License No. 5097

FILED

OCT 17 2011

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On September 30, 2010, the Administrative Law Judge, Bryan Shade, filed his Findings of Fact, Conclusions of Law, and Recommended Order in the above-captioned matter. 1. The Department served Findings of Fact, Conclusions of Law, and Recommended Order and Notice of Filing of Recommended Order on Respondent by mailing the same to his home address of record.

2. The Department has complied with the notice requirements of Ind. Code §4-21.5-3-17.

3. On October 17, 2011 the Enforcement Division filed its Objection to the Recommended Order.

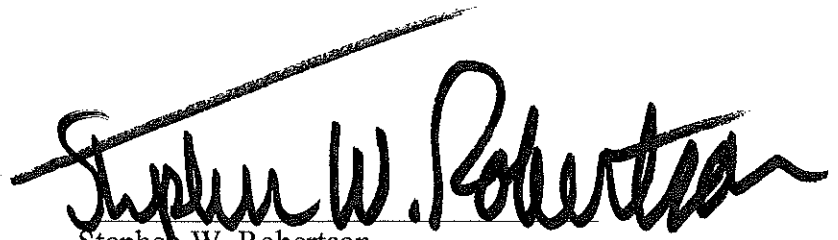
4. Respondent has not filed an objection with the Commissioner regarding the Administrative Law Judge's Recommended Order, and more than eighteen (18) days have elapsed.

THEREFORE, the Commissioner of Insurance, being fully advised, now hereby Grants in part the Enforcement Division's Objection to the Recommended Order and adopts in part the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order, and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. Respondent pay the amount owed of One Thousand Four Hundred and Forty Dollars (\$1,440) to Woods Bail Bonds within thirty (30) days.
2. Respondent pays a fine of One Thousand Five Hundred Dollars (\$1,500) for his violations of Indiana Bail Law to the Indiana Department of Insurance within thirty (30) days.
3. Respondent's license is currently expired, his license shall not be renewed.

ALL OF WHICH IS Ordered by the Commissioner this 17th day of October, 2011.


Stephen W. Robertson,
Commissioner

Distribution:

Robert L. Hummel, Attorney
Indiana Dept. of Insurance
311 W. Washington St., Suite 100
Indianapolis, IN 46204

Richard L. Cearing
1199 Hospital Road, Lot 128
Franklin, IN 46131

STATE OF INDIANA)
) SS:
COUNTY OF MARION) COMMISSIONER OF INSURANCE

CAUSE NO.: 10472-BB11-0811-008

IN THE MATTER OF:)
)
Richard L. Cearing)
Respondent/Bail Agent)
)
1199 Hospital Road, Lot 128)
Franklin, IN 46131)

FILED

SEP 30 2011

Type of Agency Action: Bail Agent Enforcement
Indiana Bail Agent License No. 5097

STATE OF INDIANA
DEPT. OF INSURANCE

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

The Administrative Law Judge, having considered and reviewed all of the evidence, will now render a decision in the matter of Richard L. Cearing ("Respondent"). This matter came to be heard on September 20, 2011, at approximately 9:15 a.m. at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana 46202.

The Indiana Department of Insurance ("Department") was represented by counsel, Robert L. Hummel. Respondent failed to appear. Witnesses testified under oath, evidence was heard, and exhibits were received into evidence.

Based upon the evidence presented at said hearing, the Administrative Law Judge now makes the following Findings of Fact and Conclusions of Law, and issues his Recommended Order as follows:

FINDINGS OF FACT

1. Respondent was properly notified of the hearing date by U.S. Certified Mail #7005 3110 0002 4439 1675.
2. Respondent was not present at the hearing and was not represented by legal counsel.

(Transcript at 7).

3. On July 8, 2011, the Department received a complaint from Teresa L. Woods of Woods Bail Bonds in Indianapolis, Indiana stating that Respondent worked for Woods Bail Bonds as a bail agent from November 2010 until April 2011, wrote ten (10) bonds totaling \$24,000 during that time, and failed to submit premium money owed to Woods Bail Bonds. (Exhibit A, p. 1).
4. Respondent first became associated with Woods Bail Bonds on October 18, 2010. (Exhibit A, p.3-5; Transcript at 17).
5. On November 17, 2010 Respondent received 19 powers from Woods Bail Bonds. (Exhibit A, p. 9; Transcript at 14).
6. Ms. Woods testified that Respondent was to collect ten percent (10%) of the face amount of the bonds he wrote as premium, and in this case should have collected Two Thousand Four Hundred Dollars (\$2,400). (Transcript at 11).
7. Additionally, Ms. Woods testified that Respondent was supposed to submit weekly reports on the bonds he wrote to Woods Bail Bonds along with sixty percent of the total premiums collected. (Transcript at 11-12, 25).
8. Respondent did not submit weekly reports. (Transcript at 13).
9. For several months, Ms. Woods was not aware whether Respondent was actually writing bonds. (Transcript at 13).
10. In this matter, Respondent should have submitted One Thousand Four Hundred and Forty Dollars (\$1,440.00) to Woods Bail Bonds for the ten bonds. (Transcript at 16).
11. Respondent only submitted one weekly report on March 2, 2011, with all the bonds he had written since November 2010. (Transcript at 17; Exhibit A).

12. Respondent also never submitted any of the One Thousand Four Hundred and Forty Dollars (\$1,440) in premium money owed to Woods Bail Bonds. (Transcript at 21).
13. Ms. Woods testified that sometime in April 2011, after she received Respondent's report, she attempted to contact Respondent regarding the money owed to Woods Bail Bonds. (Transcript at 17).
14. Respondent informed Ms. Woods that he had sent money orders for the money owed along with the report and that he would track the money orders to see if they had been cashed. (Transcript at 18).
15. A few days later Ms. Woods contacted Respondent and he stated that he would send replacement money orders, but Ms. Woods still did not receive any money orders. (Transcript at 20).
16. After receiving no payment, Ms. Woods again attempted to contact Respondent, but was unable to reach him. (Transcript at 20-21).
17. On July 11, 2011, the Department sent Respondent a copy of Ms. Woods' complaint via certified mail. (Exhibit B).
18. The July 11, 2011 certified letter was delivered and signed for by Respondent on July 13, 2011. (Exhibit C).
19. On July 26, 2011, the Department received a written response from Respondent regarding Ms. Woods' complaint. (Exhibit D).
20. In his response, Respondent indicated, among other things, that he owed Woods Bail Bonds One Thousand Four Hundred and Forty Dollars (\$1,440.00), but believed he had sent it in with his report. (Exhibit D).

21. Respondent also indicated that he would pay Mr. Woods, but he did not have any income at the time. (Exhibit D).
22. Respondent has not engaged in similar behavior in the past or the future. (Transcript at 32).
23. Respondent's bail agent license, number 5097, expired on August 31, 2011, and he has not yet submitted an application for the renewal of his license. (Transcript at 38).

CONCLUSIONS OF LAW

1. The Commissioner of Insurance has jurisdiction over both the subject matter and the parties to this action.
2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code.
3. Service of process was completed via the use of the United States Mail in compliance with the statute and due process requirements.
4. The Department met its burden of proof and showed that Respondent failed to submit money owed to Woods Bail Bonds in the amount of One Thousand Four Hundred and Forty Dollars (\$1,440.00).
5. Respondent's failure to submit premium money to Woods Bail Bonds is misappropriation of those funds and contrary to Indiana Code §27-10-3-8(a)(4).
6. According to Indiana Code §27-10-3-8, the Commissioner shall deny, suspend, revoke or refuse to renew the license of a bail agent and may impose a fine of up to ten thousand dollars (\$10,000.00) for any violation of Ind. Code §27-10-3-8(a).
7. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

RECOMMENDED ORDER

With the Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the Commissioner of Insurance the following:

1. That the Respondent pay the amount owed of One Thousand Four Hundred and Forty Dollars (\$1,440) to Woods Bail Bonds thirty (30) days after the Commissioner signs the Final Order.
2. That the Respondent pays a fine of One Thousand Five Hundred Dollars (\$1,500) for his violations of Indiana Bail Law to the Indiana Department of Insurance within thirty (30) days after the Commissioner signs the Final Order.
3. As Respondent's license is currently expired, his license shall not be renewed unless and until he has satisfied the above listed requirements and that such renewal shall be on a probationary status for a one (1) year period.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 30 day of September, 2011.



Bryan Shade
Administrative Law Judge

Distribution:

Robert L. Hummel, Attorney
Indiana Department of Insurance
311 West Washington Street, Suite 103
Indianapolis, Indiana 46204-2787

Richard L. Cearing
1199 Hospital Road, Lot 128
Franklin, IN 46131