

NOV 22 2010

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY CB

In the Matter of:

OLD WEST BONDING CO, LLC)
dba LIBERTY BAIL BONDS,)
(License #70119))
DANA LEE SCHNELL,)
(Arizona License # 67761))
(National Producer # 6738485))
and KAYE DEE O'NEAL,)
(Arizona License # 954212))
(National Producer # 15140219))
Respondents.)
_____)

No. 10A-171 - INS

CONSENT ORDER

The State of Arizona Department of Insurance ("Department") has received evidence that **Old West Bonding Co., LLC dba Liberty Bail Bonds, Dana Lee Schnell and Kaye Dee O'Neal** have violated provisions of Title 20, Arizona Revised Statutes. Respondents wish to resolve this matter without the commencement of formal proceedings, and admit the following Findings of Fact are true and consent to entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Old West Bonding Co, LLC dba Liberty Bail Bonds ("Liberty Bail Bonds") is, and was at all material times licensed as an Arizona resident bail bond agent, Arizona license number, 70119, which expires on November 30, 2012.
2. Liberty Bail Bonds' addresses of record are: 1543 W. Grand Ave., Phoenix, Arizona 85007 (business) and P.O. Box 84134, Phoenix, Arizona 85071-4134 (mailing).

3. Dana Lee Schnell ("Schnell") is, and was at all times material, licensed as an Arizona resident bail bond agent, Arizona license number 67761, which expires on May 31, 2012. Schnell the Manager/Owner of record of Liberty Bail Bonds and a Designated Responsible Licensed Producer of record.

4. Schnell's current addresses of record are: 41 W. Jefferson, Phoenix, Arizona 85003-2304 (business), P.O. Box #84134, Phoenix, Arizona 85071-4134 (mailing) and 7313 W. Caribbean Lane, Peoria, Arizona 85381-4482 (residence). Schnell's actual business and mailing addresses of record are the same as Liberty Bail Bonds' addresses.

5. Kaye Dee O'Neal ("O'Neal") is licensed as an Arizona resident bail bond agent, Arizona license number 954212, which was first issued on October 26, 2009, and expires on November 30, 2012. Arizona Corporation Commission records show that O'Neal is the Manager/Member of Liberty Bail Bonds as of February 9, 2010.

6. O'Neal's current addresses of record are: 1543 W. Grand Ave., Phoenix, Arizona 85007 (business), c/o Liberty Bail Bonds, 1543 W. Grand Ave., Phoenix, Arizona 85007 (mailing) and 2744 W. Libby St., Phoenix, Arizona 85053-1721 (residence). O'Neal's mailing address of record is actually Liberty Bail Bonds' mailing address.

7. On July 19, 2009, Liberty Bail Bonds posted a bail bond for Channing Michael Liljenberg in the amount of \$10,000.00 ("Liljenberg's bond"). Ms. Sherry Harris (the "Indemnitor") paid a total of \$10,000.00 by credit card, thus leaving a \$0 balance.

8. On March 11, 2010, the Superior Court of Maricopa County authorized the exoneration of Liljenberg's bond.

9. On March 12, 2010, the Indemnitor provided Liberty Bail Bonds a certified copy of the exoneration. Liberty Bail Bonds refused to refund the collateral to the Indemnitor stating

that their practice was not to refund requests received by the 12th of any month until the 26th of that month.

10. Liberty Bail Bonds' bond log shows a refund to the Indemnitor for the Liljenberg bond on March 11, 2010, in the amount of \$10,000 when in fact the funds have not been released.

11. On May 6, 2010, O'Neal stated that Liberty Bail Bonds would have to rely upon its surety, Banker's Insurance Company, to refund the \$10,000 to the Indemnitor for the Liljenberg bond.

12. On June 22, 2010, Bankers Insurance Company refunded \$10,000 to the Indemnitor.

13. Liberty Bail Bonds' bond log shows additional outstanding cash refunds in the amounts of \$8,097 (Bankers Insurance Company bond erroneously showing as refunded to Issa Masad) and \$12,350 (American Contractor's Insurance Company bonds).

14. On May 14, 2010, Maricopa County notified the Department that the bank returned a check written on a bond forfeiture by Liberty Bail Bonds. Liberty Bail Bonds subsequently covered the amount of the returned check.

15. On July 22, 2010, Respondents presented evidence that it was instituting a Department-approved bond register.

16. On August 6, 2010, Respondents presented evidence to the Department from Seneca Insurance Company indicating that there were no claims against the build-up fund account for Schnell.

17. On September 28, 2010, Respondents presented evidence to the Department that American Contractor's Insurance Company ("ACIC") had refunded the outstanding cash

refunds to indemnitors and that they had entered into an agreement to pay ACIC for the refunded amounts.

18. On September 28, 2010, Respondents represented to the Department that Bankers Insurance Company ("Bankers") had also made refunds to indemnitors and Respondents were working out a repayment plan with Bankers.

CONCLUSIONS OF LAW

1. The Director has jurisdiction over this matter.
2. Respondents' conduct, as described above, constitutes the violation of any provision of A.R.S. Title 20 or any rule, subpoena or order of the Director within the meaning of A.R.S. §20-295(A)(2) as applied to bail bond agents under A.R.S. § 20-340.06.
3. Respondents' conduct, as described above, constitutes the failure to maintain a daily bond register that states the date the security or collateral was received and the date released, within the meaning of A.R.S. § 20-340.01(D)(8).
4. Respondents' conduct, as described above, constitutes the violation of the provision that a bail bond agent who receives collateral in connection with a bail transaction shall do so in a fiduciary capacity and, prior to any forfeiture of bail, shall keep such collateral separate and apart from any other funds, assets or property of such bail bond agent, within the meaning of Arizona Administrative Code ("A.A.C.") R20-6-601(E)(4)(a).
5. Respondents' conduct, as described above, constitutes the violation of the provision that any collateral received shall be returned to the person who deposited it with the bail bond agent or any assignee as soon as the obligation, the satisfaction of which was secured by the collateral, is discharged, within the meaning of A.A.C. R20-6-601(E)(4)(b).

6. Respondents' conduct, as described above, constitutes the violation of the requirement that the licensee inform the director in writing within thirty days of any change in the licensee's members, directors, officers or designated producer, within the meaning of A.R.S. § 20-286(C)(2) as applied to bail bond agents under A.R.S. § 20-340.06.

7. Grounds exist for the Director to suspend, revoke, or refuse to renew Respondents' insurance licenses, impose a civil penalty and/or order restitution pursuant to A.R.S. §§20-295(A), (B) and (F) as applied to bail bond agents under A.R.S. § 20-340.06.

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondents shall provide evidence of its repayment agreement with Bankers Insurance Company to the Department once an agreement has been reached..
2. Respondent Old West Bonding Co., LLC dba Liberty Bail Bonds shall immediately inform the director of any change in its members, directors, officers or designated producer.
3. Respondent Old West Bonding Co., LLC dba Liberty Bail Bond's license is suspended for five (5) business days effective on the date of the filing of this Consent Order.
4. Respondent Dana Lee Schnell's license is suspended for five (5) business days effective the next business day after Respondent Old West Bonding Co., LLC dba Liberty Bail Bond's license is unsuspended.
5. Respondent Kaye Dee O'Neal's license is suspended for five (5) business days effective the next business day after Respondent Dana Lee Schnell's license is unsuspended.
6. Respondent Dana Lee Schnell shall immediately update his addresses of record with the Department.

7. Respondent Kaye Dee O'Neal shall immediately update her mailing address of record with the Department.

DATED AND EFFECTIVE this 22nd day of November 2010.



CHRISTINA URIAS
Director of Insurance

CONSENT TO ORDER

1. Respondents have reviewed the foregoing Findings of Fact, Conclusions of Law and Order.
2. Respondents admit the jurisdiction of the Director of Insurance, State of Arizona, and admit the foregoing Findings of Fact and consent to the entry of the foregoing Conclusions of Law and Order.
3. Respondents are aware of their right to notice and a hearing at which they may be represented by counsel, present evidence and examine witnesses. Respondents irrevocably waive their right to such notice and hearing and to any court appeals relating to this Consent Order.
4. Respondents state that no promise of any kind or nature whatsoever, except as expressly contained in this Consent Order, was made to them to induce them to enter into this Consent Order and that they have entered into this Consent Order voluntarily.
5. Respondents acknowledge that the acceptance of this Consent Order by the Director is solely to settle this matter against them and does not preclude any other agency, officer, or subdivision of this state including the Department from instituting civil or criminal proceedings as may be appropriate now or in the future.

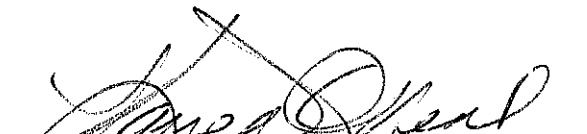
6. Respondents acknowledge that this Consent Order is an administrative action that the Department will report to the National Association of Insurance Commissioners (NAIC). Respondents further acknowledge that they must report this administrative action to any and all states in which they hold an insurance license and must disclose this administrative action on any license application.

7. Respondents acknowledge that failure to comply with the terms of this Consent Order, including but not limited to the timely payment of restitution, may result in further action by the Department, including criminal action, or referral of this matter by the Department to another federal or state agency.

8. Kaye Dee O'Neal represents that she is the Manager/Member and the Designated Responsible Licensed Producer of Old West Bonding Co, LLC dba Liberty Bail Bonds and, as such, is authorized to enter this Consent Order on its behalf.

Old West Bonding Co, LLC dba Liberty Bail Bonds, License #70119


11-19-10
Date


Kaye Dee O'Neal, Manager/Member

11-19-2010
Date


Dana Lee Schnell, License # 67761

11-19-10
Date


Kaye Dee O'Neal, License # 954212

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COPIES of the foregoing mailed/delivered
this 22nd day of November, 2010, to:

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Phoenix, AZ 85071-4134
Respondent

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c/o Liberty Bail Bonds
P.O. Box 84134
Phoenix, Arizona 85071-4134
Respondent

Kaye Dee O'Neal
c/o Liberty Bail Bonds
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Respondent

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