

COPY

**STATE OF MISSISSIPPI
OFFICE OF THE COMMISSIONER OF INSURANCE**

COMMISSIONER OF INSURANCE

PETITIONER

VS.

CAUSE NO. 011-6318

**BEN BENNIGHT, Professional Bail Agent
1-A PROFESSIONAL BAIL BONDS**

RESPONDENT

ORDER

THIS CAUSE came on for hearing before the Commissioner of Insurance of the State of Mississippi, sitting in a special session in the offices of the Commissioner of Insurance of the State of Mississippi, 10th Floor, Woolfolk State Office Building, 501 North West Street, Jackson, Hinds County, Mississippi on Wednesday, December 21, 2011 at 9:30 a.m. on the Notice of Hearing and Statement of Charges filed against Ben Bennight, Professional Bail Bondsman (License # 203103) d/b/a 1-A Professional Bail Bonds, ("Respondent"), to hear evidence concerning said complaint. Having received notice of the hearing, the Respondent appeared and gave testimony. Kimberly Causey, Special Assistant Attorney General, represented the Department. Hearing Officer Aaron Sisk took testimony and accepted evidence in this matter. Based upon the evidence and testimony, and upon the recommendation given by the Hearing Officer, the Commissioner makes the following Findings of Fact and Conclusions of Law, to-wit:

STATEMENT OF CHARGES

That the Respondent was charged with the following violation of law in the Notice of Hearing and Statement of Charges issued November 21, 2011:

- Miss. Code Ann. §83-39-15(1)(d)(Supp. 2010) by willfully failing to comply with, or willfully violating any provision of this chapter or of any proper order, rule or regulation of the department or any court of this state. Specifically, Respondent failed to appear at the November 29, 2010 term of court as previously ordered by the Circuit Court of Harrison County, Mississippi in its Order of July 26, 2010, thereby resulting in a Judgment Nisi Made Final Order being issued against him.

NOTICE AND HEARING

I.

That on or about November 21, 2011, Commissioner of Insurance of the State of Mississippi, or his appointee, pursuant to Miss. Code Ann. § 83-17-71, gave the required notice to the Respondent of the Commissioner's intention to hold a hearing for the purpose of reviewing the status of Respondent's Privilege License to operate as a Professional Bail Agent in the State of Mississippi, and to revoke any current bail agent license the Respondent may hold.

II.

That said Notice of Hearing and Statement of Charges was personally served on Respondent on November 30, 2011, in accordance with Miss. Code Ann. § 83-17-71.

III.

That pursuant to said Notice, a hearing was scheduled before the Commissioner of Insurance of the State of Mississippi, for 9:30 a.m., on Wednesday, December 21, 2011. The Respondent did appear and testify.

FINDINGS OF FACT

AFTER CONSIDERING all of the evidence presented, including the testimony of Respondent and his bail soliciting agent, Jimmy Duncan, the Commissioner of Insurance makes the following Findings of Fact:

IV.

On or about February 18, 2008, Ben Ray Williams, Soliciting Bail Agent for Respondent, wrote a bail bond for Steven Diaz ("Diaz") in Cause No. 2401-08-00471, Circuit Court of Harrison County, Mississippi.

V.

After several continuances, Diaz was ordered to appear in Court on July 26, 2010. He failed to show and a Judgment Nisi was entered in the matter against Diaz and Respondent. This Order commanded Diaz and Respondent to appear at the next regular term of Court and show cause as to why judgment against them should not be entered.

VI.

On or about November 29, 2010, a Judgment Nisi Made Final Order was entered against Diaz and Respondent due to their failure to appear at Court as previously ordered.

VII.

On or about December 23, 2010, Diaz, by and through his legal counsel, filed a Motion to Set Aside or Vacate Judgment Nisi. As a basis for the motion, Diaz stated in the Motion that his former counsel, Frederick Lusk, Jr., advised him that he did not need to be in Court for the July 26, 2010 hearing as the case was continued. As a result, he did not appear. On December 2, 2010, Diaz terminated Mr. Lusk as his legal counsel.

VIII.

On or about January 10, 2011, a hearing was held before Judge Lisa Dodson, in the Second Circuit Court District of Harrison County, Mississippi, concerning the Motion to Set Aside or Vacate Judgment Nisi filed by Diaz. At the hearing, a representative of Respondent's, Jimmy Duncan, appeared and testified in the matter.

IX.

During the court hearing on January 10, 2011, Respondent's representative, Jimmy Duncan, testified that he and Respondent were continuously aware of Diaz's location yet failed to surrender him pursuant to the Court's Order of July 26, 2010, even though Duncan and Respondent had knowledge of the Court's Order of July 26, 2010.

X.

After the taking of testimony and evidence, the Court did order the Judgment Nisi be set aside and returned Diaz to his bond.

CONCLUSIONS OF LAW

IN LIGHT OF THE AFOREMENTIONED Findings of Fact, the Commissioner of Insurance finds that Respondent, Ben Bennight, has committed the following violation:

XI.

That the Respondent has violated the provisions of Miss. Code Ann. § 83-39-15(1)(d), by willfully failing to comply with any proper order of any court in this state, as has been more particularly described herein in Paragraphs IV. through X. of this Order.

ORDER.

IT IS, THEREFORE, ORDERED that the charge previously filed herein against the Respondent should be and the same are hereby sustained.

IT IS FURTHER ORDERED, the Respondent shall be imposed an administrative penalty for his violation of Miss. Code Ann. § 83-39-15(1)(d). Pursuant to MID Regulation 95-101, any violation of the Insurance Code is subject to a \$1000.00 per violation. It is the finding of the Commissioner that a \$250.00 administrative penalty shall be issued in this matter. Said administrative penalty must be paid within sixty (60) days of the date of this Order. Failure to pay the penalty will result in the revocation of the privilege license of the Respondent.

Should the Respondent wish to appeal the Order of the Commissioner, he may follow the procedure set forth in Miss. Code Ann. § 83-39-19.

SO ORDERED, this the 6th day of January, 2012.


MIKE CHANEY
COMMISSIONER OF INSURANCE
STATE OF MISSISSIPPI

Report and Recommendation Submitted by:


AARON SISK
HEARING OFFICER