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Department of Insurance  
State of Idaho  
AM

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE  
STATE OF IDAHO**

IDAHO DEPARTMENT OF INSURANCE, )  
 ) Docket No. 18-3773-20  
 Department, )  
 vs. ) **PRELIMINARY ORDER**  
 )  
 JARIN LISCINSKI (Idaho Bail Agent License No. )  
 124848); BENEFICIAL BAIL BONDS LLC (Idaho )  
 Bail Agency License No. 509869), )  
 )  
 Respondent. )

After a hearing on this matter held November 23, 2021, the hearing officer *affirms* the findings, and grants the Prayer for Relief, in the Idaho Department of Insurance (“Department”) May 12, 2021 *Amended Verified Complaint and Notice of Right to Hearing* (“Complaint” or “*Amended Verified Complaint*”).

In summary, Respondent was an Idaho Bail Agent and Agency. In Department’s *Complaint*, it alleged five counts of Respondent violations of Idaho Code § 41-1016(1)(b) and (h); § 41-247; §

41-1043(5); § 41-1043(5). In its Prayer for Relief, Department sought an order that Respondent shall not be issued a new license (as both agent and agency) and a \$1,000 penalty (against both agent and agency) for each count—totaling a penalty of \$10,000.

On September 27, 2021, Department sent *Notice of Appointment of Hearing Officer and Hearing* to schedule a hearing in accordance with Idaho Code § 41-232. The hearing officer sent notice of a Pre-Hearing Conference and Hearing. The Pre-Hearing Conference was conducted via telephone on October 13, 2021. The parties agreed to a hearing date—which was later rescheduled to November 23, 2021. The hearing was conducted in person at the Idaho Department of Insurance, Joe R. Williams Building, 700 West State Street, 3<sup>rd</sup> Floor, Boise, ID 83720.

Department's representative and Respondent submitted exhibits before hearing, and provided testimony at hearing by Department witnesses, Karl Fromm and Mindy Walters. All exhibits and testimony was accepted as evidence and is part of the record in this matter. After considering the written and testimonial evidence, this Preliminary Order is issued per Idaho Code § 67-5245, and is organized by the following sections: *Issue, Findings of Fact, Discussion, Conclusion of Law, and Preliminary Order.*

### ISSUE

Whether Respondent violated Idaho Code § 41-1016(1)(b) and (h); § 41-247; § 41-1043(5); § 41-1043(5) by:

- Count 1: failing to respond to a Department inquiry as described in Department's *Amended Verified Complaint* dated May 12, 2021;
- Count 2: filing a deed of trust that did not indicate whether it was collateral for the bond or whether it was security for a premium financing agreement as described in Department's *Amended Verified Complaint* dated May 12, 2021;
- Count 3: failing to make a prompt response to a Department inquiry as described in Department's *Amended Verified Complaint* dated May 12, 2021;

- Count 4: incompetently attempting to collect a debt that was not owed as described in Department's *Amended Verified Complaint* dated May 12, 2021;
- Count 5: incompetently charging a client to attempt an arrest Respondent had no legal authority to conduct as described in Department's *Amended Verified Complaint* dated May 12, 2021.

### FINDINGS OF FACT

The hearing officer finds the following facts:

1. Regarding Count 1, Respondent failed to respond to a Department inquiry.
  - a. In September 2021, Department received a consumer complaint about Respondent and sent Respondent an inquiry via certified receipt about a transaction with Respondent's client. Respondent signed a certified mail receipt that he received the inquiry. Respondent never responded to the inquiry in violation of Idaho Code § 41-1016(1)(b).
2. Regarding Count 2, Respondent violated Idaho Code § 41-1016(1)(h) by incompetently preparing and executing a deed of trust that did not indicate whether it was collateral for the bond or whether it was security for a premium financing agreement.
  - a. On April 2, 2017, Respondent entered into a bail bond transaction with a consumer; the bond amount was \$200,000; Respondent charged a premium of \$20,000. On April 3, 2017, Respondent filed a deed of trust ("deed") against the consumer's real property in Meridian, Idaho in favor of Sun Surety Insurance Company.
  - b. The deed did not indicate whether it was collateral for the bond or whether it was security for a premium financing agreement. The deed would not have been legal as bond collateral because none of the receipts Respondent gave the consumer listed the real estate as collateral (in violation of Idaho Code § 41-1043(5)); the deed also violated Idaho Criminal Rule 46(g)(1) because the deed was in favor of Sun Surety Insurance Company instead of the county.
  - c. The deed would not have been legal as security for a premium financing agreement because the value of the property (\$240,500) was excessive to the amount of the premium, in violation of IDAPA 18.06.01.017.03.
3. Regarding Count 3, Respondent failed to make a prompt response to a Department inquiry in violation of Idaho Code § 41-247.
  - a. On March 19, 2020, a consumer filed a complaint with Department regarding Respondent's activities. On March 25, 2020, Department issued Respondent an inquiry via email concerning the transaction with the consumer—including

a request for copies of the bail bond power, the bail bond application, the indemnity agreement and communications between Respondent and the parties to the transaction.

- b. On April 8, 2020, Respondent replied to Department's email stating that he could not provide copies of the documents requested by Department.
4. Regarding Count 4, Respondent incompetently attempted to collect a debt that was not owed in violation of Idaho Code § 41-1016(1)(h).
    - a. On or about March 29, 2017, Respondent entered into a bail bond transaction with a consumer; the bond amount was \$500; Respondent charged a premium of \$50 plus fees; On March 29, 2017, the consumer paid Respondent \$110; on or about May 26, 2017, the court ordered this bond forfeited; on or about June 30, 2017, the court ordered this bond exonerated.
    - b. On or about January 9, 2019, Respondent sent the consumer a letter alleging that the consumer owed Respondent \$2,560 for this bail bond transaction.
  5. Regarding Count 5, Respondent violated Idaho Code § 41-1016(1)(h) when he incompetently charged a client to attempt an arrest that Respondent had no legal authority to conduct.
    - a. On or about April 20, 2017, Respondent entered into a bail bond transaction with a consumer, in relation to a criminal case; the bond amount was \$10,000; Respondent charged a premium of \$1,000.
    - b. On or about September 20, 2017, the court ordered this bond forfeited; upon forfeiture, Respondent traveled to California to search for the person who the criminal case was against; on or about June 1, 2018, Respondent billed the consumer \$2,256.24 for the trip to California, including \$1,200 in hourly fees and 41,056.24 in mileage.
    - c. The trip to California was unnecessary because even if Respondent had found the person who the criminal case was against, Respondent would not have had the authority to arrest the person per Idaho Code § 19-2914.

## **DISCUSSION**

Respondent's position. Respondent affirmed he was an Idaho resident when he had his bail agent and agency license; that the license is inactive and he promises to never apply for a bail agent or agency license again; that his company, Beneficial, has been dissolved, and has not collected on client accounts since May 2019; that he sold his client collections to a third-party.

That he started practicing bail bonds in the state of Idaho when he was 19 years old; that in his years of service, he was never described as fraudulent, coercive, dishonest, incompetent, or untrustworthy; that he has always treated his clients with respect; that he has seen heinous and egregious acts committed by bail agent in Idaho; that in contrast, the case against him was because of bad paperwork; that his violations should not be placed in the same category as Idaho Code § 41-1016(1)(h); that he takes responsibility for the lack of response to Department to their inquiries and pleads for leniency.

That the consumer was made whole in Count 1; that Count 2, he failed to provide the required receipt of collateral but that the transaction was done in haste and should have never been completed; that he asks for leniency.

That in Count 3, when he sold is collections, the third-party purchases requested all of his files to copy and return; that he provided all his files but they never returned the files to him; that in Count 4, he does not know what consumer Department referred to and would never have attempted to collect a debt of this excessive nature from a client.

That in Count 4, the person who the criminal case was against was arrested by a California bail bond agency with the help of Respondent; that Respondent had the best interest of his client in mind in attempting to arrest the person; and that he had authority to attempt to arrest the person after forfeiture of the bond had been committed.

That Department does not need to revoke his bail agent and agency licenses because the licenses have expired and he will not seek renewal; that he will never work in bail bonds again and will work in a different industry; that the \$10,000 penalty against him is excessive and he seeks a more lenient penalty amount.

Department's position. Department supported its 5 counts of allegations with witness testimony from its investigators and twenty exhibits; that Department further asserted that a bail bond agent and agency must abide by strict record keeping requirements; that Respondent did not comply with the record keeping requirements; and that without essential documentation, Department is unable to investigate; that per Idaho Code, Respondent is subject to a penalty of \$1,000 for each violation in both his capacity as an agent and an agency.

Analysis and reasoning supporting Preliminary Order. The hearing officer recognizes that Respondent may not have intended to commit the alleged violations. However, in testimony and in his written appeal, Respondent offered explanations but he did not assert or prove that Department was incorrect in the stated facts or application of the rules. (Hearing Record.) The main emphasis of Respondent's appeal was seeking a more lenient penalty amount rather than countering Department's findings. (Hearing Record.)

Accordingly, the hearing officer has no basis to disagree with Department's allegations. The hearing officer does agree with Respondent that \$1,000 for each count, both as agent and agency, is harsh given that Respondent was sole owner of the bail bond business. In the hearing officer's opinion, a \$5,000 penalty would be appropriate given the circumstances. However, the hearing officer does not have the authority to make exceptions to Idaho Code § 41-1016.

#### **CONCLUSION OF LAW**

Respondent violated Idaho Code § 41-1016(1)(b) and (h); § 41-247; § 41-1043(5); § 41-1043(5) on five counts by failing to respond to a Department inquiry, by filing a deed of trust that did not indicate whether it was collateral for the bond or whether it was security for a premium financing agreement, by failing to make a prompt, complete response to a Department inquiry, by

incompetently attempting to collect a debt that was not owed, and by incompetently charging a client to attempt an arrest Respondent had no legal authority to conduct.

**PRELIMINARY ORDER**

The Prayer for Relief in Department's May 12, 2021 *Amended Verified Complaint* is awarded.

Respondent's bail bond licenses as agent and agency are revoked and he shall not be issued a new bail bond license as either an agent or agency for a period of 5 years, and upon application, must show good cause why prior revocation should not be deemed a bar to issuance of a new license.

Respondent must pay a \$1,000 penalty for each of the five counts as alleged in the *Amended Verified Complaint* in his capacity as agent and agency, with a total penalty of \$10,000 per Idaho Code § 41-1016.

DATED: December 23, 2021.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By: Lincoln Strawhun  
LINCOLN STRAWHUN  
Hearing Officer

\* \* \* \* \*

Per IDAPA 04.11.01.730.02, **a.** This is a preliminary order of the hearing officer. It can and will become final without further action of the agency unless any party petitions for reconsideration before the hearing officer issuing it or appeals to the hearing officer's superiors in the agency. Any party may file a motion for reconsideration of this preliminary order with the hearing officer issuing the order within 14 days of the service date of this order. The hearing officer issuing this order will dispose of the petition for reconsideration within 21 days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3).

**b.** Within 14 days after (a) the service date of this preliminary order, (b) the service date of the denial of a petition for reconsideration from this preliminary order, or (c) the failure within 21 days to grant or deny a petition for reconsideration from this preliminary order, any party may in

writing appeal or take exceptions to any part of the preliminary order and file briefs in support of the party's position on any issue in the proceeding to the agency head (or designee of the agency head). Otherwise, this preliminary order will become a final order of the agency.

**c.** If any party appeals or takes exceptions to this preliminary order, opposing parties shall have 21 days to respond to any party's appeal within the agency. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the agency head (or designee). The agency head (or designee) may review the preliminary order on its own motion.

**d.** If the agency head (or designee) grants a petition to review the preliminary order, the agency head (or designee) shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. The agency head (or designee) will issue a final order within 56 days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency head (or designee) may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

**e.** Pursuant to Sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: i. A hearing was held, ii. The final agency action was taken, iii. The party seeking review of the order resides, or operates its principal place of business in Idaho, or iv. The real property or personal property that was the subject of the agency action is located.

**f.** This appeal must be filed within 28 days of this preliminary order becoming final. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23<sup>rd</sup> day of December, 2021, I caused to be served a true and correct copy of the foregoing by the following method to:

Jarin Liscinski  
Beneficial Bail Bonds  
4396 S. Cochees Way  
Boise, ID 83709  
Email: jliscinski@gmail.com

- U.S. Mail
- Hand Delivery
- Facsimile:
- Email

Michael Witry  
OAG-Department of Insurance  
700 W. State St. 3rd Floor  
Boise, ID 83720-0043  
Email: michael.witry@doi.idaho.gov

- U.S. Mail
- Hand Delivery
- Facsimile:
- Email

By: Lincoln Strawhun  
LINCOLN STRAWHUN  
Hearing Officer