

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

FILED

OCT 23 2018

INSURANCE COMMISSIONER
OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN D.)
DOAK, Insurance Commissioner,)
Petitioner,)
vs.) CASE NO. 18-0339-DIS
DENNIS CARSTENSEN, a licensed bail) 18-0340-DIS
bondsman in the State of Oklahoma,) 18-0341-DIS
Respondent.)

FINDINGS OF FACT AND CONCLUSIONS OF LAW

That on September 20, 2018, a show cause hearing was held at the Oklahoma Insurance Department ("OID") on OID's Notice of Hearing and Order to Show Cause ("Notice") which was filed on July 17, 2018. The hearing was held at the offices of OID on September 20, 2018 at 10:00 am before Independent Hearing Examiner Charles Alden, III. Present at the hearing was Sandra LaVenue ("LaVenue"), Senior Counsel for OID. Neither Respondent, nor Respondent's counsel, Art Mata, appeared at the hearing. Hearing Examiner Alden inquired as to Service of the Notice of Hearing and Order for Show Cause and requested that testimony of witnesses and/or evidence be presented to determine if sufficient notice existed prior to proceeding with the Allegations of Fact set forth in the Notice.

FINDINGS OF FACT

1. At 10:00 am on September 20, 2018, Examiner Alden announced the above captioned hearing and asked for appearances. Counsel LaVenue announced that the State was ready to proceed.

2. Examiner Alden asked if either Art Mata ("Mata") or Respondent were present. After receiving no response, employees of OID checked with the OID Sign-In desk and confirmed that neither Mata nor Respondent were present.

3. Examiner Alden requested that evidence and testimony be presented establishing sufficient notice of the proceedings prior to continuing with the hearing.

4. Evidence and testimony was presented that OID issued a Notice in this case on July 17, 2018, and that the Notice was sent by certified mail return receipt requested on that same date to Respondent's address of record on file with the OID.

5. The return receipt was signed for by Mary Carstensen on July 18, 2018.

6. The Notice set the show cause hearing for August 9, 2018.

7. Mata filed an Entry of Appearance on August 2, 2018, announcing that he was the attorney of record for Respondent and that further pleadings should be directed to him.

8. Upon Mata's Entry of Appearance, Mata also requested a continuance of the hearing scheduled for August 9th, due to a conflict with Mr. Mata's schedule.

9. The Notice was subsequently scheduled for hearing on September 20, 2018 at 10:00 a.m. and Mata was emailed with the new time and date.

10. On September 19, 2018, at 5:00 p.m., OID counsel LaVenue received an email from the same email address used previously by Mata stating: "I apologize for the short notice and I will call in the morning as well, but I was just informed that Art Mata will not be able to be at the hearing set tomorrow at 10:00 am on the above referenced. Could we please reset to another day...? Again, I apologize! [signed] Christina Onan".

11. Senior Counsel LaVenue responded to the Mata email that same day at 6:30 p.m. stating that the hearing examiner typically grants only one continuance and that this would be the second continuance requested by Mata. Counsel LaVenue wrote that she would, however, present the email to the hearing examiner for his consideration prior to the hearing the next day.

12. Just prior to mailing the above referenced email, a voice message was received in the voice mailbox of Legal Assistant, Maria Torres, at 4:54 pm indicating that the caller was Christina Onan and stating that Mata would not be at the hearing on September 20th and that he would call in the morning.

13. No one from the Mata Law Firm called the OID Legal Division the morning of September 20, 2018.

14. Maria Torres called the Mata Firm prior to the hearing on September 20, 2018 and asked to speak to either Christina Onan or Art Mata. The person answering the call said that Christina Onan would not be in that day and Mata was not at the office.

15. Neither Respondent, nor Mr. Mata filed any motion for continuance. Further, no request either written or oral was made to the undersigned Administrative Law Judge

16. Evidence and testimony of the forgoing was presented to Examiner Alden and Examiner Alden determined that Respondent and Respondent's counsel had reasonable legal notice of these proceedings as required by the Oklahoma Administrative Procedures Act and that the hearing should proceed without Respondent or Respondent's Counsel.

17. Respondent Carstensen executed an appearance bond on July 20, 2017, for Troy Maurice Williams ("Williams") in Comanche County case number CM-2017-1154.

18. On January 8, 2018, Williams failed to appear in CM-2017-1154 and the Comanche County District Court issued a bench warrant and declared the bond forfeited.

19. An Order and Judgment of Forfeiture was issued and filed in CM-2017-1154 on January 12, 2018.

20. The Comanche County Court Clerk mailed a copy of the Order and Judgment of Forfeiture on January 12, 2018, which was received by Respondent on January 16, 2018.

21. Respondent neither returned the defendant to custody by the ninetieth (90th) day nor deposited the face amount of the forfeited bond in the amount of \$1,000.00 within ninety-one (91) days from receipt of the Order and Judgment of Forfeiture.

22. Pursuant to *OAC 365:25-5-40*, the ninety-first (91st) day after receipt of the Order and Judgment of Forfeiture was April 17, 2018

23. The Comanche County Court Clerk sent Notice of Non-Payment of Bond Forfeiture to OID on April 17, 2018.

24. The forfeiture was not paid until April 27, 2018, which was approximately ten (10) days past the due date required by 59 O.S. § 1332.

25. Respondent executed two (2) appearance bonds on December 1, 2017, for Keaton Ruequan Billings ("Billings") in Comanche County case numbers CM-2017-1460 and CM-2017-1461.

26. On January 10, 2018, Billings failed to appear in CM-2017-1460 and CM-2017-1461 and the Comanche County District Court issued bench warrants and declared the bonds forfeited.

27. Orders and Judgments of Forfeiture were issued and filed in CM-2017-1460 and CM-2017-1461 on January 17, 2018.

28. The Comanche County Court Clerk mailed copies of the Orders and Judgements of Forfeiture which were received by Respondent on January 19, 2018.

29. Respondent neither returned the defendant to custody by the ninetieth (90th) day nor deposited the face amount of the forfeited bonds in the amount of \$1,000.00 each within ninety-one (91) days from receipt of the Order and Judgment of Forfeiture.

30. Pursuant to *OAC 365:25-5-40*, the ninety-first (91st) day after receipt of the Orders and Judgments of Forfeiture was April 20, 2018

31. The Comanche County Court Clerk sent Notice of Non-Payment of Bond Forfeiture to OID on April 20, 2018.

32. The forfeitures were not paid until April 27, 2018, which was approximately seven (7) days past the due date required by *59 O.S. § 1332*.

33. In addition to the three (3) bonds previously referenced in these Findings of Fact, Respondent has a lengthy administrative history with OID.

34. Respondent was first granted a license on April 22, 2015 and his first administrative action was filed on February 18, 2016. Respondent was fined \$250.00 which was due on March 18, 2016. Respondent did not pay the fine until March 24, 2016.

35. Respondent's license expired on January 31, 2017, at which time Respondent had failed to obtain the required continuing education credits and failed to submit a renewal application.

36. Respondent's license remained expired until June 15, 2017, at which time Respondent obtained the required continuing education credits and submitted a renewal application.

37. Respondent's license was in inactive/suspended status from February 1, 2017 until June 15, 2017.

38. Respondent's second administrative action was filed on May 11, 2017, at which time he was fined \$250.00.

39. Respondent's third administrative action was filed on July 31, 2017 and Respondent paid the resulting \$250.00 fine approximately thirty-nine (39) days late.

40. Respondent was fined in four (4) additional administrative actions resulting from bond forfeitures filed between January 3, 2018 and April 6, 2018.

41. From February 7, 2018 through May 1, 2018, Respondent failed to report ten (10) bonds totaling \$109,500.00 to OID and failed to pay the associated reviewal fees.

42. Respondent has not had an appointment with either a surety or professional bondsman since June 19, 2018 and has been without authority to write bail bonds in the State of Oklahoma since that time.

43. OID has received three (3) Cancellation of Appointments from professional/multicounty bondsman since March 15, 2017, each of which asserts that Respondent has violated the Oklahoma Bail Bond law and that Respondent has failed to pay premium for the bonds written using the professional's powers of attorney.

44. The Insurance Commissioner has jurisdiction over the subject raised in this dispute and may issue penalties pursuant to *59 O.S. §§ 1310 and 1332*.

PROPOSED CONCLUSIONS OF LAW

1. OID has subject matter jurisdiction in this matter and in connection with Respondent's misconduct.

2. Art Mata entered an appearance in this case on Respondent's behalf and was the only attorney of record representing Respondent.

3. This case was continued from its original hearing date at Mata's request and was scheduled for September 20, 2018, at 10:00 a.m.

4. Mata was provided notice of the hearing scheduled for September 20, 2018 at 10:00 a.m. by email.

5. The email sent on September 19, 2018 was from the same email address as previously used by Respondent's counsel and shows by clear and convincing evidence that Respondent had knowledge of the date and time of this administrative hearing.

6. The email sent at 5:00 p.m. the day before the hearing by someone other

than Respondent's counsel was not a request for continuance made by Respondent or Respondent's counsel.

7. Respondent's counsel had reasonable notice of the time, date and location of the administrative hearing as required by 75 O.S. § 1309.

8. Based upon the above provided findings of fact, there is clear and convincing evidence that Respondent failed to return Billings and Williams to custody within ninety (90) days of receipt of the Orders and Judgments of Forfeiture or pay the bail bond forfeitures by the ninety-first (91st) day after receipt of the Orders and Judgments of Forfeiture which are each a violation of 59 O.S. § 1310(A)(2), (7) and (28); 59 O.S. § 1332 and OAC 365:25-5-40 and 365:25-5-41.

9. In addition to the violations found in Conclusion of Law number 8, Respondent's lengthy administrative history shows by clear and convincing evidence that Respondent has violated 59 O.S. 1310(A)(6), (7) and (9) and that continuance in the bail bond business is detrimental to the public interest.

10. Respondent's failure to properly report bail bonds to OID and pay the corresponding reviewal fees as required by 59 O.S. § 1314 is a violation of 59 O.S. § 1310(A)(9) and demonstrates incompetency or untrustworthiness, or conduct or practices rendering the licensee unfit to carry on the bail bond business.

IT IS THEREFOR ORDERED, that Respondent, Dennis Carstensen's bail bond license is revoked and that Respondent shall be fined the sum of \$2,500.00 for failing to timely pay bond forfeitures in Comanche County Case Nos. CM-2017-1154, CM-2017-1460 and CM-2017-1461, for a total of Seven Thousand Five Hundred Dollars (\$7,500.00).

DATED this 27 day of October, 2018.



Charles F. Alden, III, OBA #0187
Charles F. Alden, III, Inc., P.C.
309 N.W. 9th Street
Oklahoma City, OK 73102
(405) 235-5255
(405) 235-8310 fax



Administrative Law Judge

CERTIFICATE OF MAILING

On the 23rd day of October, 2018, I hereby certify that a true and correct copy of the above and foregoing Order was mailed via U.S. Mail, postage prepaid thereon, to:

Art G. Mata
Mata & Mata
609 SW "E" Avenue
Lawton, Oklahoma 73501

Sandra LaVenue, Senior Counsel
Oklahoma Insurance Department
3625 NW 56th Street, Suite 100
Oklahoma City, OK 73112

And a copy delivered to:

Lewis Garrison
Bail Bonds Division

A handwritten signature in black ink, appearing to read "Sherry M. Gaudin", written over a horizontal line.

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

7017 1450 0002 2806 5345

Certified Mail Fee \$ _____
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 Return Receipt (hardcopy) \$ _____
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 Adult Signature Required \$ _____
 Adult Signature Restricted Delivery \$ _____
 Postage \$ _____
 Total Postage and Fees \$ _____



Sent To _____
 Street and Apt. No., or PO Box No. _____
 City, State, ZIP+4® _____

Art G. Mata
 Mata & Mata
 Attorney for Respondent
 609 SW "E" Avenue
 Lawton, OK 73501
 SMS/18-0339-DIS, 18-0340-DIS & 18-0341-DIS/
 Findings of Fact and Con. of Law

PS Form 3800, April 2015 PSN

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Art G. Mata
 Mata & Mata
 Attorney for Respondent
 609 SW "E" Avenue
 Lawton, OK 73501
 SMS/18-0339-DIS, 18-0340-DIS & 18-0341-DIS/
 Findings of Fact and Con. of Law



9590 9402 3455 7275 4310 53

2. Article Number (Transfer from service label)

7017 1450 0002 2806 5345

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature  Agent
 Addressee

B. Received by (Printed Name) Steve Shickman C. Date of Delivery 10/25/18

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

RECEIVED
 OKLAHOMA INSURANCE DEPARTMENT
 OCT 25 2018
 Legal Division

3. Service Type
- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail | |
| <input type="checkbox"/> Insured Mail Restricted Delivery (0) | |

Domestic Return Receipt