



State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

NEAL T. GOOCH
Aptd. Insurance Commissioner

Insurance Department

Bail Bond Oversight Board Meeting

Date: **January 20**, 2010

Time: Noon

Place: **Copper Room**, East Building.

Attendees = x *Board Members*

xMichael Weddington (Chair)	Clayton A. Simms, LLC
xBrad Jenkins (Vice Chair)	xCamille L. Neider
xGordon Wright	xCraig Crawford
xMegan I. Corrent	

Insurance Department Staff

xSuzette Green-Wright	xPerri Babalis	Tracy Klausmeier	xTara Buehner
Brad Tibbitts	xRobert Herrera	xJilene Whitby	

Public

David Walsh	Wayne Carlos	Thomas Pappas	Ty Webber	Todd Harris
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MINUTES

General Session (Open to the Public)

- **Adoption of Previous Meeting Minutes / Chair**
Jerry began the meeting at 12:05PM. Camille made a **motion** to adopt the minutes without change, Brad seconded it and the vote was unanimous.
- Time was turned over to Dave Walsh. See below minutes regarding OTSC Hearings

Executive Session (Closed to the Public) 1:18pm

General Session (Open to the Public)

- **Approval of Recommended Actions from Executive Session**
No actions to approve
- **Applications / Tara**
 - None
- **Old Business**
 - **10% Bonds / Gordon**
Wayne spoke for the Bail Bond Association. A board meeting was held January 18th. eight members attended. All eight were in favor of the 10% bond. They also received faxes from three members in favor of 10% bonds. They are also in favor of eliminating other changes to the rule. The only change would be in R590-196-4(1)(a)(i). Mike made a **motion** to change "none" to "10%" in R590-196-4(1)(a)(i), Brad seconded it and the vote was unanimous pending the vote of Association members. If at least 51% agree the motion will be carried. This will require a change in bail bond forms which could be made by amendment.
 - **Are Attorney Referral's Legal?**
Camille said that this is an issue for attorneys more than bondsmen. It s considered advertizing. Attorneys can divide a fee with another attorney. Fees may not be made on a case by case basis. They can be on an annual or flat fee basis. Perri said this

agreed with her research. Bondsmen cannot pay a referral fee or anything of value to an attorney.

- **New Business**

- **Open Meetings Act / Perri**

As a public body the Bail Bond Board must comply with the Open Meetings Act.

1- Meeting agendas must be posted 24 hours in advance. That then is the only business to be addressed at the meeting.

2- The bylaws allow for electronic meetings. They must follow instructions in #1.

3- Minutes must be written and recorded for all meetings.

4- Emergency meetings have the same requirements.

5- There are six reasons for a closed meeting, which also must follow the requirements above. Two may apply to this board:

- to talk about the character of individuals; and
- to discuss litigation.

- **New Meeting Dates for 2010**

February's meeting will be by teleconference. The March meeting will be put off a week until the 17th and hold it in the Beehive Room of the East Building at noon.

- **OTSC Hearings - 31A-35-504 / Gordon & Dave Walsh**

- Gordon's opinion was that it was up to the prosecutor to prove the notice was received. What is the definition of "served" in 31A-35-504?

- Dave Walsh works for the Salt Lake County Attorney's office. The question is, "What does 'serve' mean in the code." Does this take into account return service? In Subsection 2(c) if one is served by mail they are given three additional days. This involves a fair amount of expense for prosecutors. The statute provides a five day grace period.

- Tara said no administrative action has been taken against an individual or agency that has had evidence that they did not receive the notice.

- Gordon thought that served by mail meant nothing less than certified mail.

- Perri said "served" is not defined in the code. You have to go by how it is used.

- How do you prove the notice was sent? Certified letter is one way. Walsh said that by going back to the five day grace period it will save cost of hearing, cost to prosecutors and time for all. It will also solve this problem. The code will need to be changed.

- Tara said she receives 10-30 delinquencies each month.

- Walsh asked if the department could provide the five day notice prior to changing the code. Prosecutors mail notices to bondsman and then 18 days later he sends a copy to the department. Once the department receives the notice the judge has to suspend unless there are extenuating circumstances. Tara will check with the administrative law judge and assistant attorney general to see if there is a way to make a temporary fix.

- Camille suggested an agreement to not suspend if the forfeiture is paid within five days. Perri said the statute reads that the department "SHALL suspend the license after notice." Suzette suggesting SHALL to MAY.

- Craig said if he is out of town he won't get faxes or mail. A courtesy call would get his attention. He was told that his agent at the office should let him know when notices are received. Ty said he didn't receive a notice two times in a row.

The notice came from the department but not the court. Ty went to the prosecutor and withdrew the notice officially. **Tara has a form letter for this purpose she will send to them.**

- Camille made a **motion** to ask the department to look for options to implement the five day notice, Mike seconded it and the vote was unanimous.
 - **Notice of Service of Judgment with Regards to Suspending License / Gordon**
Same as above.
 - **Rules of Criminal, Procedure, Rule 12 Applies / Gordon**
 - **Keeping Records on Hand - 31A-35-604 / Tara & Wayne**
The code requires companies to keep bonds three years after they are closed, agent must keep them one year. Agencies acting as collateral must keep them three years.
- **Other Business**
 - **New Board Members**
It was determined that it would require a change to the statute to add more members to the board. Suzette is a non-voting member.
- **Adjourned - 2pm**

2010 Meetings - Copper Rm.

Feb 10-Teleconference	Mar 17-Beehive	Apr 14
May 12	Jun 9	Jul 14-Spruces
Aug 11	Sept 8	Oct 13
Nov 10	Dec 8	