



D. KENT MICHIE
Insurance Commissioner
Utah Insurance Department

JON M. HUNTSMAN, JR.
Governor

JOHN 'MICKEY' BRAUN, JR, CIE
Assistant Commissioner
Office of the Commissioner

Bail Bond Oversight Board Meeting

Date: August 20, 2008

Time: Noon

**Place: Capitol Board Room
(2nd Floor, East end)**

Board Members

(Attendees = x)

xDominic Sanone, Chairman

xWayne Carlos, Vice-Chairman

xClayton A. Simms, LLC

xMichael Weddington

Camille L. Neider

Bert Christenson

xMickey Braun

xMegan I. Corrent

Insurance Department Staff

xPerri Babalis

Tara Buehner

xTracy Klausmeier

Robert Herrera

xJilene Whitby

Public

Thomas Pappas

MINUTES

Welcome: Domonic began the meeting at 12:05pm.

Executive Session (Closed to the Public)

General Session (Open to the Public)

- **Adoption of Minutes of Previous Meeting**
Clayton made a **motion** to adopt the minutes, Mike seconded it and the vote was unanimous.
- **Approval of Recommended Actions from Executive Session**
No actions needing approval.
- **Application / Mickey Braun**
 - None
- **Old Business**
 - **Discuss Next Step for Rules R590-186 & 196**
Perri reported on her research regarding a possible violation of the Sherman Anti-Trust Act in setting a minimum fee. Because they are set by the State of Utah and the insurance industry, both of which are exempt from the Act, there is no violation. The State has a test they must pass to be exempt and this issue passes the test.
 - Mickey asked for the Board's recommendation on the two rules.
 - ◇ Wayne said that they had agreed not to change it in the last meeting.
 - ◇ Mickey provided the Board with the options available to them: a recommendation to adopt, a recommendation to not adopt, or make further changes and continue the rulemaking process. A rule can be changed at any time by proposing a change and sending the proposed rule through the rulemaking process. The Board needs to select an option and then recommend that option by motion.
 - ◇ Wayne made a **motion** to put the rule be put into effect, see how it works and make further changes later as needed.
 - ◇ Mike wanted to listen to the tapes of the hearing.
 - ◇ Clayton seconded the motion and the motion was open to discussion.

- ◇ Wayne said that with the exception of 2-3 companies [bail bond agencies] they all wanted the 10% limit.
- ◇ Dominic agreed there should be a 10% minimum, but was not confident that the wording of the rule would solve the problem.
- ◇ Mike did not agree with the attorney's presentation during the hearing. He did not think the rule would solve all the problems he said it would. How will getting more money make someone write a better bond? He expressed concern that 12 discounted bonds would not be enough for the people he would like to help with a reduced rate. This will hurt the consumer.
- ◇ Wayne said discounting promotes risk taking. When he first came into the business there was no discounting. The rule will protect the industry.
- ◇ Dominic agreed that 12 was too limiting. He told of two instances where he should have the ability to give a discounted rate: when someone is put back in jail after being released; and when a long time customer needs a bond.
- ◇ Wayne said that discounting is the preferred way for a new agency to get into the business. He knew of one jail that had 33 bondsmen doing business there. He did not think jails wanted to deal with that many bondsmen.
- ◇ Clayton said that as an attorney he goes with whatever rates he wants to charge. Rate competition is OK. The service you provide is what sets you apart and allows the rates you charge.
- ◇ Dominic called for a vote. The **vote** resulted in 1 vote in support of adopting the two rules and 4 votes against adopting the two rules.
- ◇ The department will make a determination in regard to the issue. Mickey said that if the department does not adopt the two rules then the issue of the 5% Bail Bond agency will go before the ALJ for a hearing and decision.
- ◇ Mike said he was not averse to continuing discussion about changes to these rules.
- ◇ Dominic said that once word got around about their discussions regarding a 10% minimum premium he is no longer receiving calls for discounted bond rates.

- **New Business**

- **Cash Bail / Mickey**

Mickey provided a copy of a letter sent to Tara regarding cash bail. It asks if a cash bond is considered bail and regulated like other bail bonds. Mickey asked how they are charged for? Mike said he charged 15%. He said that odd bond amounts are often not returned which results in the person paying them back via a monthly payment plan. We can't go out and arrest anyone. Mickey said the department would regulate cash bonds the same as any other bond with the same cap on fees, same disclosures, etc.

- ***Adjourn Motion by Wayne seconded by Clayton; unanimous; adjourned at 1:20pm***

2008 Meetings

Capitol Board Room

(2nd Floor of Capitol)

Oct 15

Nov 19

Dec 17