

F I L E D
A.M. 4:45 P.M.
MAR 22 2000
CANYON COUNTY CLERK
J. BUCKLEY, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
OF THE STATE OF IDAHO

In Re: Bail Bond Forfeiture Guidelines)
for the Third Judicial District) ADMINISTRATIVE
) ORDER
) 00-3
)

WHEREAS, by order of the Supreme Court and pursuant to I.C. § 1-907, the Administrative Judge in each judicial district has been granted administrative supervision and authority over the courts in their respective districts; and

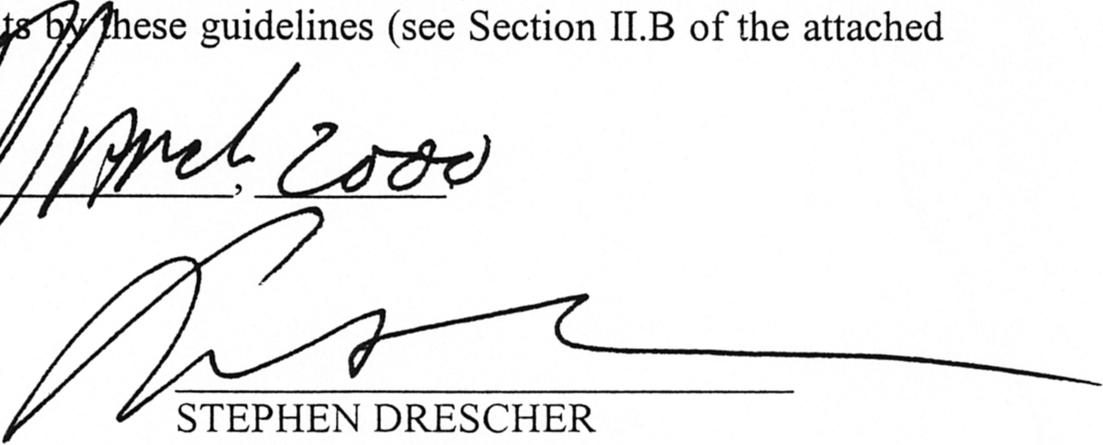
WHEREAS, it is in the best interest of the courts and the general public to provide for the consistent and prompt payment of forfeited bonds; and

WHEREAS, it is also in the best interest of the courts and the general public to ensure that the Bonding Agents who are permitted to issue bonds in the Third Judicial District conduct their business in an ethical and law-abiding manner;

THEREFORE, IT IS HEREBY ORDERED that this Court adopts the attached Bail Bond Forfeiture Guidelines for the Third Judicial District and that these guidelines shall be followed by the Trial Court Administrator and all judges, clerks, sheriffs and persons desiring to issue/post surety bonds in the Third Judicial District.

IT IS FURTHER ORDERED that these guidelines shall be effective immediately, except that all persons who are currently authorized to issue/post surety bonds in the Third Judicial District shall have sixty (60) calendar days from the date of this order to provide all information and documentation required of Bonding Agents by these guidelines (see Section II.B of the attached guidelines).

DATED this 17th day of March, 2000


STEPHEN DRESCHER
Administrative Judge
Third Judicial District

BAIL BOND FORFEITURE GUIDELINES

I. DEFINITIONS

For purposes of these Bail Bond Forfeiture Guidelines, the following terms shall be defined as follows:

- A. Administrative Judge - The currently appointed Administrative Judge of the Third Judicial District of the State of Idaho.
- B. Bonding Agent - Any person who issues/posts, or seeks to issue/post, surety bail bonds.
- C. Register - The current list of Bonding Agents who are approved to issue/post surety bonds in the Third Judicial District of the State of Idaho.
- D. Sub-Agent - A Bonding Agent who is employed by a bail bond company or another Bonding Agent and who has authority to act on said company's or Bonding Agent's behalf is a Sub-Agent of the company or Bonding Agent.
- E. Trial Court Administrator - The appointed Trial Court Administrator for the Third Judicial District of the State of Idaho.

II. REGISTER OF APPROVED BONDING AGENTS

A. DUTY TO MAINTAIN REGISTER

It shall be the duty of the Trial Court Administrator to maintain a current Register of the Bonding Agents that are approved to issue/post surety bonds in the Third Judicial District. Such Register shall include the expiration date of the Bonding Agent's license with the Idaho Department of Insurance, shall state the maximum amount per surety bond that may be issued/posted by the Bonding Agent without obtaining specific approval from the Bonding Agent's insurance underwriter and/or such other person who has similarly limited the Bonding Agent's authority, and shall state the name of the person or entity by which the Bonding Agent is employed. It shall further be the duty of the Trial Court Administrator to provide a copy of the current and updated Register to all Sheriffs and Clerks within the Third Judicial District.

B. PLACEMENT ON THE REGISTER

- 1. Any Bonding Agent who desires to be placed on the Register must submit such request, in writing, to the Trial Court Administrator. Such request must contain the following information:

- a. The name, address, and telephone number of the Bonding Agent.
- b. The name, address and telephone number of the person or entity by which the Bonding Agent is employed. The Bonding Agent shall also provide written proof that the Bonding Agent has authority to issue surety bonds on behalf of said person or entity. Such proof shall also include any limits placed on the Bonding Agent's authority to issue surety bonds, including, but not limited to, limitations on the amount of bond that may be issued/posted without obtaining special permission from said person or entity.
- c. Written proof that the Bonding Agent has authority to issue/post surety bonds on behalf of the Bonding Agent's insurance underwriter. Such proof shall also include any limits placed on the Bonding Agent's authority to issue surety bonds, including, but not limited to, limitations on the amount of bond that may be issued/posted without obtaining special permission from the Bonding Agent's insurance underwriter.
- d. The name, address and telephone number of the Bonding Agent's insurance underwriter.
- e. Proof of a current license from the Idaho Department of Insurance to issue/post surety bonds.
- f. A statement as to whether the Bonding Agent has ever been removed from a Register of approved Bonding Agents in the Third Judicial District of the State of Idaho, any other District of the State of Idaho, or any other jurisdiction in the United States, its territories or possessions. If such removal has ever taken place, the Bonding Agent shall describe the circumstances surrounding the removal.
- g. A statement as to whether the Bonding Agent has ever been subjected to disciplinary action, in any way connected to surety bonds, by the Idaho Department of Insurance or any other entity of the federal or any state or local government. If any such action has ever taken place, the Bonding Agent shall describe the circumstances surrounding such action.
- h. A written waiver by the Bonding Agent allowing the Trial Court Administrator to have a criminal history check conducted of the Bonding Agent.

2. Upon receiving the above required information from a Bonding Agent who desires to be placed on the Register, the Trial Court Administrator shall place such Bonding Agent on the Register unless the Trial Court Administrator is concerned, based on the information provided, or upon some other articulable grounds, that good cause exists to not place such Bonding Agent on the Register. In the event that the Trial Court Administrator has such a concern, he/she shall immediately submit an affidavit to the Administrative Judge that sets forth the basis of his/her concerns. Upon receiving such an affidavit, the Administrative Judge shall give notice to the Bonding Agent and shall conduct a hearing in the same manner as provided for in Section III.B. of these guidelines. If, following the hearing, the Administrative Judge determines that good cause exists to not place the Bonding Agent on the Register, the Administrative Judge shall issue an order to that effect and the Bonding Agent shall thereafter not be listed on the Register absent an order from the Administrative Judge that so directs. However, if the Administrative Judge finds that such good cause does not exist, the Trial Court Administrator shall immediately place such Bonding Agent on the Register.

C. DUTIES OF BONDING AGENTS

1. In addition to all other duties and requirements placed on Bonding Agents by law, regulation, or elsewhere in these guidelines, a Bonding Agent who desires to be placed and maintained on the Register shall comply with the following requirements:
 - a. Immediately inform the Trial Court Administrator, in writing, of any change in the information originally provided, or required to be provided, pursuant to Section II.B, above.
 - b. Provide the Trial Court Administrator with proof of current licensing by the Idaho Department of Insurance.
 - c. Immediately inform the Trial Court Administrator of any change of the Bonding Agent's insurance underwriter, employer, or the authority of the Bonding Agent to act on behalf of said insurance underwriter or employer.

D. ACCEPTANCE OF SURETY BOND

No surety bond shall be accepted by any Sheriff or Clerk in the Third Judicial District unless the Bonding Agent desiring to issue/post such bond is on the current and updated Register. Further, no Sheriff or Clerk in the Third Judicial District shall accept any surety bond in excess of the maximum amount the Bonding Agent is

permitted to issue/post as stated on the Register, or in contravention of any restrictions on the Bonding Agent's authority as listed on the current and updated Register. Provided, however, that a Bonding Agent may issue/post a surety bond in excess of the maximum amount listed on the Register or beyond his/her listed limitations of authority, if the Bonding Agent provides proof, in writing, that he/she has been granted authority by his/her insurance underwriter and employer to exceed the amount or go beyond the restrictions as listed on the Register.

III. REMOVAL FROM REGISTER

If any Bonding Agent is removed from the Register pursuant to these guidelines, all Sub-Agents of that Bonding Agent shall also immediately be removed. Provided, however, if the Sub-Agent complies with the requirements to be listed on the Register as a Bonding Agent, but not as a Sub-Agent of the Bonding Agent who is being removed, said Sub-Agent shall not be removed from the Register. However, said Sub-Agent's information shall be updated to reflect their change in status.

A. IMMEDIATE REMOVAL

1. FAILURE TO MAINTAIN CURRENT LICENSE

A Bonding Agent shall immediately be removed from the Register if the Bonding Agent's license from the Idaho Department of Insurance is not current or if the Bonding Agent has not provided proof of current licensing to the Trial Court Administrator. Said Bonding Agent shall immediately be placed back on the Register as soon as said Bonding Agent provides proof of current licensing, unless said Bonding Agent has been removed from the Register for some other reason authorized by these guidelines.

2. FAILURE TO TIMELY PAY A FORFEITURE

- a. All clerks of the district court shall report to the Trial Court Administrator all Bonding Agents who have failed to pay their forfeitures within ninety (90) calendar days of the entry of an order for such forfeiture. The Trial Court Administrator shall send or cause to be sent to each Bonding Agent who is delinquent on the payment of a forfeiture, a notice of such delinquency by certified mail. If payment is not received within ten (10) calendar days of the mailing of such notice, the Trial Court Administrator shall immediately remove the delinquent Bonding Agent from the Register without further notice to the Bonding Agent. Provided, however, that no such Bonding Agent shall be removed from the Register of approved Bonding Agents if:

- i. The forfeited bond is or becomes exonerated; or
 - ii. There is a pending motion before the Court regarding the forfeiture; or
 - iii. The Court excuses the delinquency for good cause shown.
- b. All Bonding Agents that have been removed from the Register by the Trial Court Administrator for failing to timely pay a forfeiture shall be placed back on the Register upon providing a receipt(s) showing that all forfeitures outstanding for ninety (90) calendar days or more have been paid in full. Provided, however, that such Bonding Agent shall not be placed back on the Register if the Bonding Agent has been removed from the Register for some other reason authorized by these guidelines or by order of the Administrative Judge.

B. REMOVAL BY ORDER

1. Notwithstanding any of the other provisions of these guidelines, the Administrative Judge may, by order and for good cause, remove a Bonding Agent from the Register. "Good cause" for removal from said list shall include, but not be limited to, any of the following reasons:
 - a. Failure of the Bonding Agent to comply with any of the provisions of these guidelines.
 - b. Violation by the Bonding Agent of any of the regulations or requirements placed upon the Bonding Agent by the Idaho Department of Insurance.
 - c. Conviction of the Bonding Agent for any felony, or for a misdemeanor involving theft, fraud, deceit, or any other crime of moral turpitude in any state or federal court within the United States or any of its territories.
 - d. If in the conduct of the Bonding Agent's business affairs, the Bonding Agent has engaged in fraudulent, dishonest or deceitful practices.
 - e. If the Bonding Agent has engaged in any other conduct that threatens injury or loss to the court, the general public, or others.
 - f. If the Bonding Agent has provided false, incorrect, incomplete or misleading information in any manner to any court, judge, clerk,

deputy clerk, public official, or trial court administrator.

- g. If the Bonding Agent has been the subject of disciplinary measures by the Idaho Department of insurance or any judge or trial court administrator in the State of Idaho.
- h. If the Bonding Agent has failed to pay a forfeiture in a timely manner or has repeatedly failed to do so.

2. NOTICE OF INTENT TO REMOVE

Before a Bonding Agent is removed from the Register by order of the Administrative Judge, the Court shall serve the Bonding Agent with an order to show cause why the Bonding Agent should not be removed from the Register. Such order shall be accompanied by an affidavit of the Trial Court Administrator or other complaining party stating the grounds for which removal is sought. Such order shall give a date and time certain, on which the Bonding Agent must appear to show cause why the Bonding Agent should not be removed from the Register. Service of notice shall be accomplished by either personal service or by sending notice via certified mail to the last known address of the Bonding Agent or the Bonding Agent's place of business.

3. HEARING ON ORDER TO SHOW CAUSE

The hearing on the above referenced order to show cause shall not be held sooner than five (5) business days after the service or mailing of the above described order to show cause, unless the Bonding Agent requests, in writing, that the hearing be held earlier and the Court chooses, in its discretion, to grant this request. If, at the hearing, the Bonding Agent fails to show good cause why the Bonding Agent should not be removed from the Register, the Administrative Judge shall issue an order directing that the Bonding Agent be removed from said Register. Such order shall only have the effect of causing a Bonding Agent to be removed from the Register and shall in no wise constitute a finding that the Bonding Agent is in contempt of court. Once a Bonding Agent is removed from the Register by court order, the Bonding Agent shall not be placed back on the Register without an order from the Administrative Judge directing the same.