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**MINUTES OF A MEETING OF
THE BAIL SYSTEM TASK FORCE
May 5, 2004**

10 The Task Force held its fourth meeting on May 5, 2004, beginning at 3:15 p.m., at the Talbot
11 County Library, Easton, Maryland.

12 Task Force members present were:

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Hon. James N. Vaughan, Chair	Hon. Daniel M. Long, Vice Chair
Brian J. Frank, Esq.	Patrick Loveless
Carolyn Hughes Henneman, Esq.	Joseph P. Rosenthal
Hon. Maureen M. Lamasney	Elizabeth Ann Ritter, Esq.

26 Also present were:

27 Dennis A. Bartlett, PhD., American Bail Coalition
28 William G. Donahue, Maryland Insurance Administration
29 Solomon Hamilton III
30 Christopher Flohr, Esq.
31 Kelley O'Connor, Director of Government Affairs, Court Information Office
32 Diane S. Pawlowicz, Assistant Chief Clerk, District Court of Maryland
33 Rhea R. Reed, Esq., Director of Internal Audit, Maryland Judiciary
34 John H. Riggle, Chief Enforcement Officer, Compliance and Enforcement Section, Maryland
Insurance Administration
Elizabeth Buckler Veronis, Esq., Task Force staff

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The Chair began the meeting by thanking those task force members who had taken the time to formulate proposals and suggesting that, with the notable exception of Mr. Franks' recommendation, the similarity would allow some decisions with regard to the internal auditors' third recommendation for a bail bond commissioner at Judiciary headquarters to track and monitor bail bonds Judiciary-wide.

The Chair expressed the sentiment that the Mr. Frank's proposal to phase out property bondsmen is beyond the scope of the Task Force and felt that, in any event, doing so would evolve into the Baltimore City model resulting in fraud with properties pledged over and over

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1 to “relatives”.

2 Mr. Frank responded that the key would be verification. In the event of multiple pledges, a
3 court would bring everyone in to establish the relationship.

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5 Mr. Loveless opined that a regional system, such as the 7th Circuit, provides the benefit of a
6 coordinator knowledgeable about persons posting bond.

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8 Mr. Frank suggested that reporting through the District Court Headquarters has been good and
9 felt that difficulties in funding positions could be addressed through outsourcing of title
10 searches. As his proposal indicated, a title search could be done for not more than \$ 100 per
11 property, to be paid by the person pledging the property.

12
13 Mr. Frank responded that he felt this would not have an adverse effect on the release times.
14 However, the concern was raised about the difficulty presented by verification after the fact.
15 Ms. Ritter noted the revocation of a bond due to fraud on the bondsman’s part penalizes a
16 defendant who has already paid the bondsman.

17
18 Ms. Reed noted her concern about the completeness of a title check as most deeds of trust for
19 bonds are not filed, absent default. The members’ consensus was that it would be preferable
20 for a commissioner can verify information before taking a bond, rather than placing an
21 additional burden on the system.

22
23 Ms. Henneman commented that doing away with property bonds reduces the alternatives for
24 pretrial release.

25
26 Ms. Reed opined that the Statewide system would continue to present enforcement problems
27 but would provide a good gatekeeper.

28
29 The Chair suggested that the professional bondsmen pose little problem and queried the Task
30 Force on the possibility of combining in the Maryland Insurance Administration the
31 responsibility for licensing professional property bondsmen and bail bondsmen. Mr. Donahue
32 and Mr. Riggle stated that Mr. Raimondi, being unable to attend, had asked them to make
33 clear his resistance to such a change, noting that it is incompatible with the current law. The
34 Chair noted that the Task Force could recommend the necessary amendments to the current
35 law.

36
37 Judge Lamasney cited a recent decision of the 7th Circuit to have licensed bail bondsmen
38 apply with the 7th Circuit bond commissioner in the same manner as property bondsmen. The
39 7th Circuit rules allows this change and the bondsmen want the same identification
40 documentation. The Sheriff will run the criminal background checks. Judge Lamasney also
41 noted that this will enable the 7th Circuit’s bail bond commissioner, Lelia E. Newman, to get

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1 to know all of the licensees, reiterating Mr. Loveless' view that regional commissioners have
2 this advantage over a State commissioner. Mr. Loveless seconded that Ms. Newman is able
3 to suspend licensees in violation of the rules, providing him with a list that is forwarded to all
4 of the commissioners. Note was made, however, that the list is not automated.

5
6 Ms. Reed noted that the 7th Circuit practices poses problems absent a limitation on pledging
7 property only in the county where located. Judge Lamasney concurred that the weak point
8 in the system is lack of information.

9
10 Judge Long suggested that, whether a regional or State system or both, there needs to be
11 consistency in the practices Statewide. The Chair reiterated that complete abolition of
12 property bonds does not seem practicable to him but almost any recommendations by the Task
13 Force would be an improvement, starting with a complete rewrite of the laws governing
14 bonds.

15
16 There was discussion whether the volume of property bonds would pose a burden to the
17 Maryland Insurance Administration, with mention made of 3% volume and discussion of the
18 number licensed in the 7th Circuit versus those actively writing bonds.

19
20 The Chair expressed concern with the role of courts in enforcing bonds on the basis of a
21 commissioner's testimony, suggesting that a court should not be prosecutor. Licensing by the
22 Maryland Insurance Administration would afford a method comparable to home-improvement
23 licenses, for administrative handling of licensing violations. Ms. Henneman suggested that
24 the percentage paid on bonds for licensing in the 7th Circuit, if made Statewide, could afford
25 a source of funding for necessary personnel in the Administration. Ms. Reed believed,
26 however, that there still would be a need for court personnel to track bonds, although the
27 Chair indicated his intent to have all information reported to the Administration, which would
28 conduct the necessary title searches. Ms. Reed referred to the coupon system currently in use
29 for bail bondsmen.

30
31 The Task Force continued its discussion of transferring various licensing responsibilities to
32 the Maryland Insurance Administration. Ms. Ritter noted that the current process is reactive,
33 with investigations only if a problem comes to the fore. The Administration could be
34 proactive. Mention was made about posting licensing information on the Administration's
35 website, with Mr. Loveless noting that this comports with what Ms. Newman does, and Judge
36 Lamasney noted that the 1% licensing fee makes the 7th Circuit process self supporting.

37
38 Ms. Reed referred to a gap as to bonds written outside the 7th Circuit, placing a licensee's
39 pledges in the Circuit at jeopardy. The Chair noted that he contemplates a Statewide system
40 operating under the Maryland Insurance Administration. Ms. Henneman was asked about
41 handling of licensing violations by the Attorney General's office. Ms. Henneman noted

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1 separate responses are usual, with fraud handled criminally and other violations handled in
2 civil proceedings.

3
4 Mr. Frank reverted to the possibility of three bonds constituting “professional” status,
5 constituting the need for licensure, but the Chair reiterated his concern about a court being the
6 enforcer. Ms. Ritter suggested that the entity doing the title search would bring information
7 before the court but the Chair opined that this places the court in the same position as reports
8 on violations of probation . A judge should not be initiating the process. Rather, a State’s
9 attorney should be petitioning the court, but the process has evolved for speedy handling.

10
11 In response to a comment by Mr. Frank, Judge Long inquired whether the title reporter would
12 need to be summoned and sworn as an expert witness.

13
14 The Chair emphasized that it is violative of due process to have a system whereby a
15 commissioner goes to a judge and on the basis of this *ex parte* communication, the judge
16 institutes enforcement proceedings. On the other hand, the Attorney General or State’s
17 attorney institutes a proceeding in instances of, for example, a building permit and introduces
18 evidence with the court being a neutral participant. An additional benefit, in the Chair’s view,
19 would be the Insurance Commissioner not being an elected official. which would mitigate
20 against outside pressure.

21
22 Ms. Reed was asked about the statistical data and discussion ensued about the capabilities of
23 the data systems currently available within the Judiciary with recognition that funding
24 concerns may require baby steps in improving the process. Judge Long mentioned the practice
25 of maintaining bond books and inquired about the District Court. Mr. Frank noted that the
26 District Court process is automated, which Judge Long observed would provide at least notice
27 until satisfaction was recorded. Mr. Loveless noted not accepting property until a lien is
28 recorded would preclude postings on weekends and other days when the land record offices
29 are closed. Ms. Reed responded to a query about ELROI by noting that 21 clerks’ offices are
30 tied in, but Ms. Henneman brought up the problem of backlogs in several of those offices. Ms.
31 Ritter reminded the Task Force that commissioners are able to search the current JIS system
32 by name, albeit this is time consuming and suggested that the problem is the discretion of
33 commissioners.

34
35 Ms. Reed felt that the first, and not difficult, step is to file on any property that is going to be
36 pledged, with an individual declaration at posting – even by “mom-and-pop” operations. The
37 data base would be the first step in the process, but the declarations do not get filed currently.
38 Mr. Loveless suggested they could be faxed to the Maryland Insurance Administration.

39
40 Judge Lamasney noted the ability of licenses to appeal from decisions of the 7th Circuit bond
41 commissioner. Mr. Hamilton noted that, in that Circuit, bondsmen basically deed over their

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1 property and cannot have mortgages or other encumbrances.
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3 In response to the Chair’s query about active bondsmen of the estimated 99 licensees, Mr.
4 Hamilton suggested 12 to no more than 20 currently write bonds. Mr. Frank urged the Task
5 Force not to develop a superhighway for so few licensees. Recognizing that the Task Force
6 might not regard this as positive, bondsmen view licensing as protecting them from
7 competition by persons outside the 7th Circuit. Licensees not filing periodic reports are called
8 by the Commissioner’s office.
9

10 Ms. Ritter inquired about the similarity of licensing qualifications, with Mr. Frank and Mr.
11 Hamilton disagreeing. There ensued discussion about the current laws, with Ms. Reed
12 suggesting that an expansive reading would allow the District Court to maintain a Statewide
13 list.
14

15 The Chair inquired whether the Task Force could reach any unanimity as to the Internal
16 Auditor’s third recommendation, for a bail bond commissioner at Judiciary headquarters to
17 track and monitor bail bonds Judiciary-wide. Judge Long moved to adopt the
18 recommendation, with Judge Lamasney’s second for a process described by the Chair as a
19 “super-Prince George’s County. Query was made about the law which bars property
20 bondsmen outside the 7th Circuit, with Ms. Reed directing the members’ attention to Criminal
21 Procedure Article § 5-203 (appearing on page D-76 of the Notebook).
22

23 Mr. Flores returned to an example mentioned earlier, whereby a parent with property in
24 Howard County would be unable to pledge that property for release of a child held in
25 Baltimore City. Note also was made that not much property is owned free and clear today, and
26 Mr. Flores observed that he could not remember the last time that a parent pledge property.
27 Parents would rather pay a bondsman or pay money into the court, instead of risking their
28 home. The federal system was touched upon, with note made of U. S. Magistrate Judge James
29 K. Bredar’s comments at the March 3, 2004 meeting.
30

31 The Chair mentioned the *Sun* editorial urging veto of House Bill 1053, and the mention of the
32 Task Force’s failure to take a position.
33

34 The pending motion was tabled, and the Chair specifically asked Mr. Donahue and Mr. Riggle
35 to discuss with the Insurance Administrator the takeover of the licensing function for
36 professional property bondsmen.
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38 The Chair indicated that staff would poll the members about availability for the next meeting.
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40 There being no further business, the meeting ended at 4:45 p.m.
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Respectfully submitted,

Elizabeth Buckler Veronis
Staff

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Approved: July 2, 2004

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