

APPENDIX

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STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

**In re: Special Services Bureau, Inc.
d/b/a Regional Bonding Co.,
Plaintiff Below, Petitioner**

No. 19-0365 (Berkeley County 18-P-121)

**FILED
April 6, 2020**

EDYTHE NASH GAISER, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

MEMORANDUM DECISION

Petitioner Special Services Bureau, Inc. d/b/a Regional Bonding Company ("Special Services Bureau"), by counsel Gregory E. Kennedy and Landon S. Moyer, appeals the order of the Circuit Court of Berkeley County, entered on March 15, 2019, denying its motion for relief from judgment. The final order from which petitioner seeks relief, entered on December 4, 2018, denied petitioner's amended petition to renew its authority to conduct bail bonding activities in the 23rd Judicial Circuit.

This Court has considered the parties' briefs and the record on appeal. The facts and legal arguments are adequately presented, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision affirming the order of the circuit court is appropriate under Rule 21 of the Rules of Appellate Procedure.

In March of 2018, John Orem, then the principal and an agent of Special Services Bureau, petitioned the Circuit Court of Berkeley County for renewal of Special Services Bureau's authorization to engage in the bail bonding business in the 23rd Judicial Circuit. According to the petition, Sher Orem (John Orem's wife) and another individual also were agents of Special Services Bureau. The circuit court conducted an initial hearing on the petition on August 27, 2018. The appendix record on appeal does not contain the order scheduling the hearing, but it is apparent from the transcript that the circuit court had ordered Mr. Orem to submit to drug testing, and that Mr. Orem had not done so. In October of 2018, the circuit court entered an order directing Mr. Orem to refrain from the bail bonding business pending resolution of Special Services Bureau's renewal petition.

Special Services Bureau amended its petition for renewal of its authorization to engage in the bail bonding business, naming Sher Orem as its principal and omitting John Orem from its list of agents and from any apparent association with the business. At a subsequent hearing, Special Services Bureau, by counsel, represented that Ms. Orem was its "president, vice-president, treasurer, secretary, and agent for service of process" and was the sole owner of Special Services Bureau stock. At this hearing, the circuit court asked Ms. Orem about a bond she wrote a few weeks prior, while accompanied by Mr. Orem, before a Berkeley County magistrate judge. Ms.

Orem testified in response: ". . . It's not something that's familiar for me so I was nervous and I had asked him to come with me to make sure I was doing everything properly because, you know, I was nervous." Ms. Orem testified that she was not aware that the court had ordered her husband to abstain from the bail bonding business. The circuit court called upon the magistrate judge's assistant, who testified that Mr. Orem hid from her sight while Ms. Orem waited for the assistant to grant access to the office. Ms. Orem denied that she deceived the magistrate court. The court also explained that when Ms. Orem wrote the bond before the magistrate court, she submitted a power of attorney (as requested by the magistrate judge) signed by her husband. The magistrate judge's assistant testified that Mr. Orem instructed his wife how to complete the bond.

On December 4, 2018, the circuit court entered a final order denying the petition to renew Special Services Bureau's authority to engage in the bonding business in the 23rd Judicial Circuit. The court found that neither Mr. nor Ms. Orem were of "good moral character," and it wrote that it was unable to find that Ms. Orem was sufficiently removed from Mr. Orem "to not do what he directs her to do." The court also found that Mr. Orem transferred control of Special Services Bureau to Ms. Orem to avoid Mr. Orem's submission to drug testing. The court did, however, find that Ms. Orem was sufficiently financially responsible.

Special Services Bureau filed a motion for relief from judgment pursuant to Rule 60(b) of the West Virginia Rules of Civil Procedure, based on "newly-discovered evidence" in the form of office surveillance video showing that Mr. Orem was visible to the magistrate judge's assistant prior to the assistant's granting the Orems access to the office. The circuit court conducted a hearing on that motion in February of 2019. The evidence presented included the video recording, and a proffer that the power of attorney in question was a form document pre-printed with Mr. Orem's signature in 2015 as president of Special Services Bureau. However, it was Ms. Orem who signed the power of attorney as the "executing agent" in completing the bond documents.

On March 15, 2019, the circuit court entered the order that is the subject of this appeal, denying the motion for relief from judgment. In its order, the court struck its earlier findings that Ms. Orem concealed Mr. Orem's presence when entering magistrate court and that Ms. Orem was "working in concert" with her husband to conceal his identity from the magistrate judge's assistant. However, the circuit court ratified its earlier findings that Mr. Orem had continued to engage in the bail bonding business after having been instructed not to do so, and that Ms. Orem was not of good moral character. We review Special Services Bureau's appeal, arising as it does from the circuit court's denial of its motion for relief from judgment, according to the following standard:

"A motion to vacate a judgment made pursuant to Rule 60(b), W. Va. R.C.P., is addressed to the sound discretion of the court and the court's ruling on such motion will not be disturbed on appeal unless there is a showing of an abuse of such discretion." Syllabus point 5, *Toler v. Shelton*, 157 W.Va. 778, 204 S.E.2d 85 (1974).

Syl. Pt. 1, *Jividen v. Jividen*, 212 W. Va. 478, 575 S.E.2d 88 (2002).

Special Services Bureau asserts six assignments of error¹, all of which may fairly be encompassed in the consideration of a single question: Did the circuit court abuse its discretion in denying Special Services Bureau's motion for relief from judgment? Importantly, “[a]n appeal of the denial of a Rule 60(b) motion brings to consideration for review only the order of denial itself and not the substance supporting the underlying judgment nor the final judgment order.” Syllabus point 3, *Toler v. Shelton*, 157 W.Va. 778, 204 S.E.2d 85 (1974).” Syl. Pt. 3, *Jividen*, 212 W. Va. 478, 575 S.E.2d 88. The relevant inquiry is whether the circuit court utilized appropriate discretion when considering whether Special Services Bureau had demonstrated the need for relief based on any of the factors set forth in Rule 60(b). Rule 60(b) provides, in pertinent part:

On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order, or proceeding for the following reasons: (1) Mistake, inadvertence, surprise, excusable neglect, or unavoidable cause; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment.

Special Services Bureau argues that it presented the circuit court with “newly-discovered evidence” in the form of office surveillance video that firmly discredited the testimony of the magistrate court assistant who testified that Mr. and Ms. Orem deceived the magistrate court in order to receive access to the magistrate court office. The court found Ms. Orem—Special Services Bureau’s principal—lacking in “good moral character” upon receiving this testimony and the assistant’s testimony that Mr. Orem continued to engage in bail bonding, and Special Services Bureau argues that the basis for these findings is now proven unreliable. We note, however, that the circuit court founded its determination on other considerations. Namely, the circuit court found Ms. Orem’s testimony that she was unaware that her husband was prohibited from engaging in bail bonding unreliable. The court also stood by its finding that Mr. Orem attempted to engage in bail bonding when he accompanied

¹ Special Services Bureau argues that the circuit court erred in denying its motion for relief from judgment, finding that Ms. Orem is not of good moral character, finding that Mr. Orem engaged in the bonding business in violation of the circuit court’s order, failing to consider another circuit court’s order finding that Ms. Orem was of good moral character, incorporating language in the final order that was not proposed by Special Services Bureau, and in entering an order on October 3, 2018, suspending Special Services Bureau’s authority to engage in bail bonding. We consider each of the first four assignments of error insofar as they are interlaced with the circuit court’s consideration of the newly-discovered evidence described in the body of this decision. The fifth assignment of error, however, we reject outright because a circuit court has absolute authority in the formulation of its orders, even when considering an order proposed by a party. The sixth assignment of error we reject outright as outside the scope of Rule 60(b) consideration.

Ms. Orem to magistrate court, and noted that Ms. Orem was aware at the time that he was doing so. There remaining some valid basis for the circuit court's determination that Special Services Bureau's agent lacked good moral character, we find that the circuit court did not abuse its discretion in denying the motion for relief from judgment.

For the foregoing reasons, we affirm.

Affirmed.

ISSUED: April 6, 2020

CONCURRED IN BY:

Chief Justice Tim Armstead
Justice Margaret L. Workman
Justice Elizabeth D. Walker
Justice Evan H. Jenkins

DISSENTING:

Justice John A. Hutchison

In the Circuit Court of Berkeley County, West Virginia

JOHN OREM, authorized Agent for:)
SPECIAL SERVICES BUREAU, INC.)
d/b/a,)
Plaintiff,)
vs.)) Case No. CC-02-2018-P-121
Defendants)
)

**ORDER DENYING SPECIAL SERVICES BUREAU, INC.'S MOTION FOR RELIEF
FROM JUDGMENT**

On February 22, 2019, came Petitioner Special Services Bureau, Inc. d/b/a A Regional Bonding Co. ("Special Services"), in person and by its counsel J. Mark Sutton, Esquire, and the law firm of Sutton & Janelle, P.L.L.C., and Gregory E. Kennedy, Esquire, Landon S. Moyer, Esquire, and the law firm of Franklin & Prokopik, for the purpose of a hearing on Special Services' Motion for Relief from Judgment ("Motion"), and the videotape provided with said motion.

At the outset of the hearing, the Court informed Special Services that it had reviewed the motion and made the following *sua sponte* rulings. First, the Court found that Kimberly Clark from Magistrate Shull's office was in a position to be able to see, but apparently overlooked, who was entering Magistrate Shull's office and that Mr. Orem was not being concealed or attempting to be concealed by Mrs. Orem so that Ms. Clark would not be able to see Mr. Orem prior to entering Magistrate Shull's office on November 8, 2018.

As such, the Court ORDERED that its prior order entered on December 4, 2018, titled Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia would be amended. Specifically, the Court ORDERED that the

following amendments be made to the Court's December 4, 2018 order: (1) on page 4, the Court strikes the portion that states "the Court further finds that the Oremes intentionally concealed John Orem from the security camera so that he could accompany his wife into Magistrate Shull's office for the sole purpose in engaging in the bonding business by instructing his wife on how to write the bond; and (2) on the first full paragraph, subsection 2 on page 5, the Court strikes the portion that reads "her statement that she was not working in concert with Mr. Orem to conceal his identity from Magistrate Shull's assistant on November 8, 2018."

After announcing the aforementioned rulings, the Court heard arguments from Special Services' counsel in regard to Special Services' motion. First, counsel for Special Services addressed the statutory requirements for authority to engage in the bonding business in West Virginia. Next, counsel for Special Services addressed the issue of the change in corporate officers and shareholders for Special Services, and tendered to the Court West Virginia Secretary of State documents relative to Special Services. Thereafter, counsel for Special Services set forth arguments concerning the issue of whether Mr. Orem engaged in the bonding business on November 8, 2018, and provided the Court with a copy of Power of Attorney No. 2251 and a blank Special Services power of attorney. Then counsel for Special Services presented to the Court an order entered by Judge Tucker in the Circuit Court of Monongalia County entered on January 24, 2019, granting Special Services authority to engage in the bonding business and finding that Mrs. Orem was of "good moral character" as required by West Virginia Code § 51-10-8.

After counsel for Special Services finished with the arguments in support of Special Services' Motion, the Court declined to take oral testimony from Mrs. Orem.

Based on the arguments of counsel for Special Services and the documents produced to the Court and entered into evidence as Exhibits 1-4, the Court FOUND that Mrs. Orem has the required financial responsibility as required by West Virginia Code § 51-10-8.

The Court further FOUND that November 8, 2018, was the pivotal date involving the Court's prior order and that the Court had previously ordered Mr. Orem not to engage in the bonding business and Mr. Orem was present in court on the dates that the Court ordered him not to engage in the bonding business.

The Court further FOUND Mr. Orem continued to engage in the bonding business by accompanying Mrs. Orem to Magistrate Shull's office on November 8, 2018.

The Court further FOUND that the documents from the West Virginia Secretary of State evidenced the change in officers for Special Services was effective November 1, 2018, that Mrs. Orem was acting as the president of Special Services on November 8, 2018, and was at that time charged with the duty and responsibility to know how all persons in the corporation were allowed to act.

The Court further FOUND that Mrs. Orem's prior testimony on November 28, 2018, was not credible in regard to her not knowing that Mr. Orem could not engage in the bonding business, especially given that 7 days prior to the pivotal date of November 8, 2018, Mr. Orem signed over the company to Mrs. Orem.

The Court further FOUND that Mr. Orem, contrary to the Court's order, was attempting to participate in the writing of a bond on November 8, 2018, that Mrs. Orem knew it was occurring, and that it was in contravention of the Court's prior order.

The Court stated that the only pertinent matter the Court was not considering was

whether Mrs. Orem tried to conceal the identity of Mr. Orem. All other information relied upon by the Court in rendering its prior decision was still before the Court and substantially unchanged.

Finally, the Court FOUND that Sher Orem was not of good moral character as required by West Virginia Code § 51-10-8 and therefore stood by its Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia, as amended, in the totality of all circumstances. Thus, the Court DENIED Special Services' Motion for Relief from Judgment, and noted all objections thereto.

The Clerk is directed to transmit attested copies of this Order to all counsel of record; the Clerks of the Circuit Courts for Berkeley, Jefferson, and Morgan Counties; and the Clerks of the Magistrate Courts for Berkeley, Jefferson, and Morgan Counties.

The Clerk is further directed to remove this matter from the Court's active docket and report the matter as closed.

PREPARED BY:

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/s/ Laura Faircloth
Circuit Court Judge
23rd Judicial Circuit

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/s/ Sher Orem
Circuit Court Clerk
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West Virginia

In the Circuit Court of Berkeley County, West Virginia

JOHN OREM, authorized Agent for:)
SPECIAL SERVICES BUREAU, INC.

d/b/a,

Plaintiff,

vs.)

Defendants

) Case No. CC-02-2018-P-121
)
)

FINAL ORDER DENYING AMENDED PETITION TO RENEW AUTHORITY TO
ENGAGE IN THE BONDING BUSINESS IN THE TWENTY-THIRD JUDICIAL
CIRCUIT, BERKELEY, JEFFERSON, AND MORGAN COUNTIES, WEST VIRGINIA

On the 28th day of November, 2018, came the Petitioner, Special Services Bureau Inc. d/b/a A Regional Bonding Co., in person by Sher Orem and by counsel, J. Mark Sutton, Esq., upon its Amended Petition to renew its authority in the bail bonding business in cases in the Twenty-Third Judicial Circuit, and upon the matter being scheduled for a final hearing on this date.

Thereupon, counsel for Petitioner advised the Court that John Orem was not present because Mr. Orem removed himself from any participation in Special Services Bureau Inc. d/b/a A Regional Bonding Co., and Mr. Orem's wife, Sher Orem, was now the President, Vice President, Secretary, Treasurer, and agent for service of process of said company. Mr. Sutton provided the Court with a copy of the West Virginia Secretary of State – Online Data Services, Business Organization Detail, verifying the transfer, which the Court reviewed. The Court inadvertently stated the Business Organization Detail shows Sher Orem is the incorporator of Special Services Bureau Inc. d/b/a A Regional Bonding Co.; in fact, it shows that John Orem is the incorporator and further shows that Sher Orem is the Director. Mr. Sutton could not provide a date to the Court

that the transfer of officers from John Orem to Sher Orem occurred, nor could he provide a date that he filed said paperwork with the West Virginia Secretary of State's office, other than early November. The Court directed Mr. Sutton to file the Business Organization Detail in the court file.

The Court notes that prior to the transfer of officers from John Orem to Sher Orem, Sher Orem was the Secretary for Special Services Bureau Inc. d/b/a A Regional Bonding Co.

Sher Orem was then sworn in and testified that, on the advice of counsel, she became the officers for Special Services Bureau Inc. d/b/a A Regional Bonding Co. a few weeks before.

The Court then questioned Mrs. Orem about a bond that was written on November 8, 2018, with Magistrate Shull in Berkeley County. Mrs. Orem testified that John Orem went with her to Magistrate Shull's office because she was nervous and she wanted to make sure she did everything properly. Mrs. Orem testified she was not aware that her husband, John Orem, had been ordered by the Court to not engage in any act of bonding until the Court made a final determination on the merits of the Petition. Mrs. Orem testified that her husband did not purposely hide from the court's security camera when she buzzed to be admitted to Magistrate Shull's office and her husband followed her inside. She further testified that her husband completed the Power of Attorney required by Magistrate Shull and that he delivered same to Magistrate Shull's office on November 8, 2018. She also confirmed that John Orem signed the Power of Attorney as President of the company, and that she did not know whether she was the President of Special Services Bureau Inc. d/b/a A Regional

Bonding Co. on November 8, 2018, but that John Orem would not be involved in the bonding business going forward.

Kimberly Clark, assistant to Magistrate Shull, also testified under oath. She stated that on November 8, 2018, Sher Orem buzzed to be permitted access to Magistrate Shull's office and that John Orem could not be seen on the security camera, but followed his wife in after access was granted. Ms. Clark testified she was "surprised" Mr. Orem came in, knowing that he was ordered by the Court to not engage in any bonding business, and felt that the Orems concealed Mr. Orem from the camera so that he could come into the office. Ms. Clark stated she would not have let Mr. Orem into Magistrate Shull's office if she had seen him on the security camera, and that she felt "manipulated" by the Orems. Ms. Clark further testified that John Orem directed Sher Orem on how to complete the paperwork to write the bond. Ms. Clark then advised the Orems to come back later in the day when Magistrate Shull was available. Ms. Clark then called the Orems at their office and spoke with Mr. Orem and advised that Magistrate Shull required a Power of Attorney to write the bond. Ms. Clark testified that Mr. Orem delivered the Power of Attorney to Magistrate Shull's office.

At the conclusion of all testimony and evidence, and after a thorough review of the court file and prior hearings had, the Court made the following findings of fact and conclusions of law.

West Virginia Code § 51-10-8 states in pertinent part that the court "shall take into consideration...the moral qualities of the person so applying...and no person may be permitted to engage....in the business of becoming surety upon bonds for compensation in criminal cases...who is not known to be a person of good moral

character."

In consideration of the Amended Petition, the Court stated it was faced with the issue of determining whether Sher Orem is known to be a person of good moral character and found that she was not. The Court does not find Sher Orem's testimony to be credible insofar as her statement that she did not know her husband was not to be involved in the bonding business until the Court ruled on the merits. Further, as an officer of the company (either as Secretary prior to the transfer or as President after the transfer), it was incumbent upon Sher Orem to be aware of all matters affecting the company.

The Court also does not find it to be of good moral character that Sher Orem permitted John Orem to engage in the bonding business on November 8, 2018, by directing her on how to complete the paperwork, by signing the Power of Attorney, and delivering same to Magistrate Shull's office.

The Court further finds that the Orems intentionally concealed John Orem from the court security camera so that he could accompany his wife into Magistrate Shull's office for the sole purpose of engaging in the bonding business by instructing his wife on how to write the bond, and that said actions are also not of good moral character. The Court finds that John Orem was engaging in the bonding business on November 8, 2018, and that Sher Orem was complicit in allowing him to do so, in violation of this Court's order. The Court is not confident Sher Orem is of good moral character when she allows her husband to manipulate the rules of the Court.

Based on the Court's observation of Ms. Clark's demeanor and hearing her testimony, the Court finds the testimony of Kimberly Clark to be credible and finds that

Ms. Clark felt "manipulated" by the Orem's.

Based upon the Court's observation of Sher Orem's demeanor and hearing her testimony, the Court finds the testimony of Sher Orem to lack credibility, especially as it relates to: (1) her lack of understanding that her husband was not allowed to participate in writing bonds until a final hearing was conducted and unless the Petition was granted; (2) her statement that she was not working in concert with Mr. Orem to conceal his identity from Magistrate Shull's assistant on November 8, 2018; and (3) her intention and ability to operate the company, as President, without allowing Mr. Orem to participate in writing bonds.

Based on the totality of circumstances, the Court cannot find that the current President of the company, Sher Orem, is far enough removed from her husband, John Orem, to not do what he directs her to do. Sher Orem has already admitted under oath that he directed her actions in writing a bond on November 8, 2018.

The Court is cognizant that in October, 2018, it stated it would request all others seeking to issue bonds to be drug tested, not just John Orem, and that John Orem was not being singled out. Although the Court intended to request Sher Orem to be drug tested at the conclusion of the evidence presented at the hearing on November 28, 2018, it did not do so because the Court was already convinced that Sher Orem was not of good moral character and the results of a drug test, even if negative, would not have changed the Court's decision.

The Court notes its concern that John and Sher Orem transferred the officers of the corporation to Sher Orem prior to the November 28, 2018 hearing in an effort to avoid having John Orem drug tested again. The Court finds such actions to be a ruse

and notes that the Orem's can, at any time, switch the officers back to John Orem.

Upon consideration of all of the above and the totality of circumstances in this matter, it is ADJUDGED and ORDERED that the *Amended Petition to Renew Authority to Engage in the Bonding Business in the 23rd Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia* is DENIED on the basis that it cannot find Sher Orem is known to be of "good moral character" in this matter as required by West Virginia Code § 51-10-8.

The Clerk is directed to transmit attested copies of this Order to counsel of record and to the Magistrate Court Clerks for the Twenty-Third Judicial Circuit. The Clerk shall then remove this matter from the Court's active docket and report the matter as closed.

/s/ Laura Faircloth
Circuit Court Judge
23rd Judicial Circuit

Note: The electronic signature on this order can be verified using the reference code that appears in the upper-left corner of the first page. Visit www.courtswv.gov/e-file/ for more details.

IN THE CIRCUIT COURT OF BERKELEY COUNTY, WEST VIRGINIA
23rd Judicial Circuit

IN RE: PETITION FOR RENEWAL
OF BONDING AUTHORITY

CASE NO. 18-P-121

TRANSCRIPT OF PROCEEDINGS HELD before the Honorable
Faircloth, Judge, on the PETITION TO RENEW AUTHORITY
bove-styled matter on Monday the 27th day of August
11:20 a.m.

APPEARANCES:

On Behalf of the Petitioner:

CHRIS JANELLE, ESQUIRE
125 E. King Street
Martinsburg, West Virginia 25401

1 (August 27, 2018, 11:20 a.m.)

2 THE COURT: Next case is 18-P-121. All right. Could I
3 have the petitioner's counsel identify himself for the record
4 and who is with him.

5 MR. JANELLE: Good morning, your Honor. Chris Janelle
6 here for John Orem and Special Services Bureau petitioner for
7 a petition to renew the authority to engage in bonding in the
8 23rd Judicial Circuit.

9 THE COURT: All right. And the Court had signed an order
10 for Mr. Orem to drug test before we take this matter up today
11 and I understand that that has not been done yet. So would
12 you like to be heard.

13 MR. JANELLE: Your Honor, I arrived here from a
14 proceeding downstairs, was handed this document by Mr. Orem
15 just moments ago. It is my understanding he has not taken it
16 and would ask me to tell the Court that he objects to taking
17 it. He hasn't had the experience of ever having been -- that
18 ever having been a condition of this petition for himself or
19 anyone else who has applied as a bondsman in this circuit.

20 THE COURT: Well, and here's the Court's reasoning on it.
21 And I'm going to ask you because I'm sure you'll have some
22 better knowledge than the Court does but one of the
23 requirements is that the Court under West Virginia Code
24 Section 51-10-8 make a conclusion as to whether or not the

1 defendant is a person known to be of good moral character and
2 in this day where someone is going to be serving in the
3 capacity as this petitioner would suggest to engage in, the
4 bonding business, with drugs running so rampant the Court is
5 especially concerned that Mr. Orem would want to demonstrate
6 to the Court that he is not using drugs of any kind. And we
7 all understand what that underlying charge that was dismissed
8 against him entailed. It entailed allegations of drug use.
9 He, I believe, represented at the time -- and I only understand
10 this from what I read in the newspaper -- that he may have
11 been sick and that whatever was found in his house was not his
12 but the Court would think that Mr. Orem would want to make
13 sure that there's not any question about his use of illicit
14 drugs when he's here before the Court asking the Court to
15 renew his authority to engage in the bonding business.

16 MR. JANELLE: I understand the Court's position on that.
17 I can tell you that I wasn't involved in that criminal matter.
18 I have since been involved in a matter representing Mr. Orem
19 whereat it was clear -- while there was no allegations of any
20 misconduct of that kind -- it was clear that there was a
21 motive by the proponent to go back to that and I think that
22 Mr. Orem's frustration if I can speak for him is that it feels
23 to him as though this continues to be applied to him and no
24 one else.

1 THE COURT: I can assure you in the 23rd Judicial Circuit
2 when this judge is hearing a case for someone who wants to be
3 able to issue bond where most defendants who appear before
4 this Court are involved in some sort of drug charge there will
5 be a request that that person submit to a drug test. Mr. Orem
6 is not being singled out.

7 MR. JANELLE: That's understood. Thank you.

8 THE COURT: So with that having been said is your client
9 refusing to drug test today?

10 MR. JANELLE: I do not know.

11 PETITIONER OREM: Your Honor, I'm in a precarious
12 situation here.

13 THE COURT: When you talk to the Court you do need to
14 stand.

15 PETITIONER OREM: I go to surgery next week and I've had
16 to take prescribed and unprescribed medications over the last
17 two weeks 'cause I was out of the country when I hurt myself.
18 And I'm going to get a posterior interior fusion September
19 11th and 13th, two separate surgeries, and I've had a lot of
20 medications over the last two weeks and you're going to be
21 putting me down here for a drug test that may not be able to
22 tell one from the others.

23 THE COURT: All right. Do you have any of your
24 prescription medications with you today?

1 PETITIONER OREM: No, I don't have them with me but I can
2 tell you it's the Virginia Spine Clinic and I'm scheduled for
3 surgery at Reston Hospital on September 11th.

4 THE COURT: Now, you did say you'd been taking prescribed
5 as well as unprescribed?

6 PETITIONER OREM: Well, I've had prior prescriptions from
7 ongoing back pain, back surgeries. I have codeine left over
8 from prior prescriptions. I've got Percocet left over from
9 prior prescriptions and before I got in to see the doctor and
10 he prescribed me new prescriptions I had to take what I had
11 available.

12 THE COURT: All right.

13 PETITIONER OREM: And plus like I said I was out of the
14 country when I hurt myself. I was in -- what's that called --
15 where they got the new Nickelodeon Resort whatever that place
16 is called. Anyway, you know, I got a prescription there while
17 I was there and I, you know, I have a lot of different
18 medications in me and you want me to go down and take a drug
19 screen yeah I'm going to test positive for narcotics right now
20 absolutely both prescribed and ones that were previously
21 prescribed that I take.

22 THE COURT: All right. So that's the only reason that
23 you --

24 PETITIONER OREM: Well, no. Just like my attorney

represented it earlier this is not a prerequisite of the standard.

THE COURT: I'm not going to argue the law with you and your attorney can explain it to you but I just want to be clear that the basis the Court is using is 51-10-8 and one of the things I need to do is find you to be a person of good moral character and quite frankly your affidavit saying you are is not necessarily -- and that doesn't apply to just Mr. Orem -- it applies to anyone who would be seeking the authority to engage in a bonding business.

PETITIONER OREM: So does this go for all the agents of our company and so forth?

THE COURT: Anyone who appears before this Court.

PETITIONER OREM: So only the person who shows up for the hearing?

THE COURT: The person who is asking by petition to have the authority to engage in a bonding business. I would hope that you would regularly and randomly drug screen everybody who works for you but that's up to you, but as far as this Court is concerned and I think you probably know this we live in the heart of a addiction in the United States. We have the highest incidents in Berkeley County of heroin overdose in all of the 50 states and to this Court that is extremely troublesome. And so when an individual is asking for

1 authority to be able to bond someone that person needs to
2 demonstrate to this Court because this Court considers it to
3 be of good moral character when you're bonding people on drug
4 charges that you don't use. So that's why this Court believes
5 that it's acceptable under these circumstances to ask. I'm
6 not requiring. I'm asking you to submit to a drug test and if
7 you're willing to do that then the Court will allow you to.
8 The Court accepts your explanation of how you might test today
9 and as a result of that would be willing to set this out until
10 after you've had your surgery and then you're only taking
11 whatever prescribed medication your physician has told you to
12 take.

13 MR. JANELLE: So post-operatively how long will you be?
14 You're scheduled for surgery on September 11th.

15 PETITIONER OREM: They're telling me about a four-week
16 recovery until I'm actually out walking. They're operating on
17 my back the 11th.

18 THE COURT: Well, I don't want you to compromise your
19 health so I can set it sometime in October. I can do
20 September 28th at 3:00. I know that kind of shortens your --

21 PETITIONER OREM: That's only two weeks after surgery.

22 THE COURT: I can do October the 2nd, October the 9th,
23 October the 29th. So those are the dates I have, Mr. Janelle.

24 MR. JANELLE: Well, we'll make October the 29th work at

1 our law firm.

2 THE COURT: How about 2:00 does that work?

3 MR. JANELLE: May I consult my phone calendar?

4 THE COURT: Sure. Of course.

5 MR. JANELLE: That's going to work with me. It'll either
6 be myself or Mr. Sutton.

7 THE COURT: All right. Perfect. Does that date work for
8 your client as well?

9 MR. JANELLE: Yes. Yes.

10 THE COURT: All right. Now, if you find, sir, that if
11 for any reason you're not healing as well as you were hoping
12 to and you think that moving around and coming up here to the
13 courtroom is going to cause you some problems all you need to
14 do is get in touch with your attorney and he'll reschedule the
15 matter.

16 PETITIONER OREM: No problem. Thank you, your Honor.

17 THE COURT: Absolutely. And I just want you to know now
18 when you come in you're going agree to take this drug test and
19 this is the very same manner in which I would approach it with
20 anyone else as long as we have this opioid addiction as
21 flaming as it is here. So I'm going to ask you to do that.
22 You've agreed to do it. So when you come in we'll have an
23 order waiting for you so they'll know what to do. When you go
24 down to get your drug test please bring with you all of your

1 prescription medication. You don't have to bring the
2 medication, I'm sorry. Prescriptions. Like a note written
3 from your physician of what you're taking.

4 PETITIONER OREM: Off my bottles.

5 THE COURT: Absolutely. So that when probation tests you
6 they're going to know okay he's going to test positive for
7 this and this and this and that will be consistent with the
8 information that you've given them about what you're taking.
9 Understand, sir?

10 PETITIONER OREM: Absolutely, your Honor.

11 THE COURT: All right. Thank you so much. Anything
12 further, Mr. Janelle?

13 MR. JANELLE: So this is generally continued until that
14 day?

15 THE COURT: It is.

16 MR. JANELLE: Shall I prepare an order to that effect?

17 THE COURT: Would you please?

18 MR. JANELLE: I will.

19 THE COURT: Thank you so much. We're off the record.
20 Good luck in your surgery, sir.

21 PETITIONER OREM: Thank you.

22

23

24

1 STATE OF WEST VIRGINIA

2 COUNTY OF BERKELEY, TO-WIT:

3 I, Pamela Patterson, an Official Reporter of the Circuit
4 Court of Berkeley County, West Virginia, do hereby certify
5 that the foregoing is a true and correct transcript of the
6 proceedings had and testimony taken in the action of In re:
7 18-P-121, Petition to Renew Bonding Authority held on Monday
8 the 27th day of August 2018.

9 I hereby certify that the transcript within meets the
10 requirement of the Code of the state of West Virginia, 51-7-4,
11 and all rules pertaining thereto as promulgated by the Supreme
12 Court of Appeals.

13 Given under my hand this 16th day of September 2018.

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18 Pamela A. Patterson
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25 Official Reporter, Circuit Court of
26 Berkeley County, West Virginia

IN THE CIRCUIT COURT OF BERKELEY COUNTY, WEST VIRGINIA
23rd Judicial Circuit

IN RE: PETITION FOR RENEWAL
OF BONDING AUTHORITY

CASE NO. 18-P-121

TRANSCRIPT OF PROCEEDINGS HELD before the Honorable
Faircloth, Judge, on the PETITION TO RENEW AUTHORITY
ove-styled matter on Wednesday the 28th day of
2018, at 12:00 a.m.

APPEARANCES:

On Behalf of the Petitioner:

MARK SUTTON, ESQUIRE
125 E. King Street
Martinsburg, West Virginia 25401

(Wednesday, November 28, 2018 12:00 p.m.)

1 THE COURT: All right. Could I have counsel identify
2 himself for the record please and whom it is that he
3 represents.

4 MR. SUTTON: Mark Sutton on behalf of Special Services
5 Bureau, Inc., your Honor and beside me is Sher Orem who is the
6 president, vice-president, treasurer, secretary, and agent for
7 service of process.

8 THE COURT: All right. I apologize I do need you to
9 speak up a little bit. We're having trouble with that mic I
10 think picking things up over there. Could you tell me what
11 offices she holds of the corporation please.

12 MR. SUTTON: Yes, your Honor. She currently serves as
13 the -- I'll just read these off. She's the director,
14 president, secretary, treasurer, vice-president, and agent for
15 service of process.

16 THE COURT: All right. So she essentially holds all of
17 those offices that I believe Mr. Orem, John Orem, previously
18 held according to my search through the secretary of state's
19 office which was several months ago when he was first before
20 the Court.

21 MR. SUTTON: That's correct, your Honor. She's also the
22 owner of all of the stock.

23 THE COURT: All right. So do you have a written I guess
24 confirmation or verification of that so we can insert it into

1 the record?

2 MR. SUTTON: Yes, ma'am, I do. This is a printout from a
3 search that was done just a bit ago from the secretary of
4 state's page.

5 THE COURT: All right. It appears to be the same type of
6 instrument that the Court had before it previously when it did
7 a search of the secretary of state's website. So I will allow
8 you to submit that to the clerk's office and have it
9 electronically submitted so we can have that as verification.

10 MR. SUTTON: Yes, ma'am.

11 THE COURT: Mr. Sutton, it does present a little bit of a
12 problem for the Court based on what I understand to have been
13 a conversation that you had with my judicial law clerk prior
14 to coming on the record and I believe that you used a little
15 language that was pretty harsh and I don't appreciate that.
16 She is court personnel and you're to direct your comments to
17 her the same courtesy that the Court uses with you. We have
18 adversarial parties but as officers of the Court we should
19 never be that way and should never speak with that kind of
20 disrespect to anyone. So I'm going to ask you to make an
21 apology to her and not let it ever happen again.

22 MR. SUTTON: I'm very sorry, your Honor. I thought she
23 was being aggressive with me at first in suggesting that I
24 told her to do my job for me.

1 THE COURT: I understand.

2 MR. SUTTON: That was not my intent and I apologize.

3 THE COURT: All right. Thank you and that's accepted and
4 I think that what Allison was trying to explain was if you
5 don't have a document we've adopted the practice in our court
6 that if an attorney doesn't have a document they need to get
7 the document. We're not going to do that because we see that
8 as practicing law and in some ways maybe showing favoritism to
9 some. We don't even do it for pro se parties. So I wanted to
10 make you understand that that wasn't directed toward you
11 personally. It's just a matter of the way that we try to
12 handle everything so no one feels that they're getting an
13 advantage or a disadvantage. So I accept your apology and
14 thank you for that.

15 MR. SUTTON: You're welcome.

16 THE COURT: So moving forward now we're here to make a
17 final review of the application of Special Services Bureau
18 Incorporated to renew and I do need to have I guess it would
19 be now the agent, the director, the president, the
20 vice-president to stand raise her right hand and be sworn
21 before the Court.

22 (Witness sworn by the Clerk.)

23 THE COURT: All right. Ma'am, I think it might be easier
24 if you come up here to the witness stand and that way Mr.

1 Sutton will be able to ask you questions if I miss anything.

2 All right. Can you tell the Court when it is that you
3 became the director, the president, vice-president, secretary,
4 the treasure, and the agent for the corporation?

5 THE WITNESS: I don't know the exact date. I don't know
6 a few weeks ago or so.

7 THE COURT: And what was the reason for that change?

8 THE WITNESS: We were actually directed by our attorney
9 that it would be just beneficial for me to step up and take
10 control of the business.

11 THE COURT: And I do appreciate the answer that you're
12 giving. I have a couple of questions of you specifically and
13 was going to ask them today without even knowing that you had
14 become the -- I would say the sole officer and agent for the
15 corporation but I think that it's appropriate to ask these
16 questions. It appears to the Court that you were in
17 Magistrate Shull's court on or about November the 8th 2018 to
18 be able to write a bond for an individual. Do you recall
19 that?

20 THE WITNESS: I do.

21 THE COURT: All right. So it's the Court's understanding
22 that when you went to write the bond both you and Mr. Orem
23 came to the magistrate's office that day?

24 THE WITNESS: Yes, ma'am.

1 THE COURT: Is that because you didn't know how to do the
2 bond and you needed his assistance?

3 THE WITNESS: It's more nervous when I come to the court
4 I just become -- it's not something that's familiar for me so
5 I was nervous and I had asked him to come with me to make sure
6 I was doing everything properly because, you know, I was
7 nervous.

8 THE COURT: Well, and it appeared based on reports that
9 the Court received that you appeared in front of the camera so
10 that Magistrate Shull's assistant would be allowed to see who
11 she was giving access to the office and Mr. Orem was not
12 visible on the camera but when she opened the door for you or
13 buzzed you in Mr. Orem just came right on in with you. Would
14 you agree that that's they way that went on?

15 THE WITNESS: No, ma'am.

16 THE COURT: Now, I want you to understand I have
17 Magistrate Shull's assistant ready to come in and testify.

18 THE WITNESS: No, ma'am, I do not remember it that way at
19 all. I remember us both standing in that hallway together.

20 THE COURT: But my question is was he purposely standing
21 away from the --

22 THE WITNESS: Not to my knowledge. I can't tell you
23 what, you know, his thoughts may have been but I had no
24 knowledge of him --

1 THE COURT: Okay. Ms. Allison, you might want to alert
2 Magistrate Shull's assistant and bring her in here. Thank
3 you.

4 Okay. So you said that you asked him to come in with you
5 because you were a little nervous; correct?

6 THE WITNESS: Yes, ma'am.

7 THE COURT: All right. Did you need to have his
8 permission or his authority to write the bond?

9 THE WITNESS: No, ma'am.

10 THE COURT: And I understand that Magistrate Shull
11 indicated to you that he was going to need a power of attorney
12 signed by the -- I suppose at that time -- president of the
13 corporation. Do you remember that?

14 THE WITNESS: At first we didn't bring one over because
15 we actually have property up with the court but they actually
16 had called our office and say they were waiting on a power and
17 then one had to be brought over.

18 THE COURT: All right. So your husband John Orem is
19 actually the one who signed at that time?

20 THE WITNESS: I believe so. I don't recall.

21 THE COURT: All right. Let me just share with you a copy
22 of what I've been provided. And I'm going to have security
23 take it over to your attorney so he can take a look at it
24 first but it's called power of attorney. The power amount was

1 a thousand and it's Power Number 2251. So I'm going to have
2 Mr. Sutton take a look at that first.

3 THE WITNESS: Okay.

4 THE COURT: So are you taking a look at that power of
5 attorney.

6 THE WITNESS: Yes, ma'am.

7 THE COURT: Does that refresh your recollection as to the
8 fact that your husband John Orem signed it as president?

9 THE WITNESS: It is his signature.

10 THE COURT: All right. So that was prior to the time
11 that you became the president of the corporation?

12 THE WITNESS: I don't remember the exact date so I can't
13 honestly answer that question.

14 THE COURT: Okay. Well, that's fair enough and I
15 appreciate your honesty. Now, were you aware at the time that
16 you went to Magistrate Shull's office of this Court's ruling
17 that John Orem was not to engage in the bonding business at
18 all?

19 THE WITNESS: No, ma'am. I was under the understanding
20 that you guys were in the process of trying to renew but not
21 that he wasn't able to do anything on behalf of the business.

22 THE COURT: All right. And you're not certain as to
23 whether or not Mr. Orem was no longer the president at the
24 time he signed as the president?

1 THE WITNESS: I can't be a hundred percent certain, no.

2 THE COURT: And you're telling this Court that you took
3 over the presidency of the corporation and were unaware of the
4 ruling that this Court had made about what Mr. Orem was
5 allowed to do and not allowed to do; correct?

6 THE WITNESS: Yes, ma'am, I actually am.

7 THE COURT: So he came to court on more than one occasion
8 and didn't tell you anything about the Court's order?

9 THE WITNESS: No, he didn't not tell me anything. He
10 just was more vague on the ruling was being pushed back in
11 deciding on his renewal because of drug testing is what more
12 of my understanding was of the situation.

13 THE COURT: All right. Because the Court did have the
14 court reporter prepare a transcript from the last hearing
15 because I wanted to be sure that my recollection was accurate
16 and I specifically said at page 2 of the transcript he,
17 meaning John Orem, is not to engage in any act of bonding
18 until we're back before the Court and the Court has a final
19 determination on the merits of the petition. So would that
20 surprise you that that's what the Court ruled last time?

21 THE WITNESS: I didn't have knowledge of that exact
22 ruling. No, ma'am.

23 THE COURT: So how is it that you plan on having Mr. Orem
24 interact with you in the business of the corporation moving

1 forward because that's a pretty important piece of information
2 I would think for anyone to know who's operating as a bond
3 writer.

4 THE WITNESS: Yes, ma'am. Basically, it's going to be
5 myself and Tyler's our agent for the area that will be
6 handling the bonding business.

7 THE COURT: So your husband's not going to be in the
8 office or working in the office?

9 THE WITNESS: Well, we have several business that we run
10 in the office so...

11 THE COURT: All right. Let me be very clear then about
12 the bonding business. Mr. Orem, John Orem, is not going to be
13 involved at all in the bonding business.

14 THE WITNESS: No, ma'am. In the bonding business, no,
15 ma'am.

16 THE COURT: And I believe that you've already indicated
17 that this power of attorney was a document that you had back
18 at your office so that was why you needed to leave the
19 magistrate's office to go get the power of attorney and have
20 it --

21 THE WITNESS: Yes, it was at the office. Yes.

22 THE COURT: All right. And would you agree with me that
23 the handwriting on the bond was your husband's handwriting?

24 THE WITNESS: It appears to be, yes.

1 THE COURT: All right. So he not only signed it but he
2 completed the power of attorney before bringing it back to the
3 magistrate's office; correct?

4 THE WITNESS: Yes, ma'am.

5 THE COURT: And it was your husband who brought it back
6 to the magistrate's office?

7 THE WITNESS: Yes, ma'am.

8 THE COURT: All right. And you're not sure whether you
9 were the president then or not which would --

10 THE WITNESS: I can't be a hundred percent. I can't.

11 THE COURT: And that would have been November the 8th.

12 THE WITNESS: I can't be a hundred percent sure. I can't
13 remember the date.

14 THE COURT: All right. Is Kim Clark available? I don't
15 have any further questions but I'll see if Mr. Sutton has any
16 questions that you'd like to ask.

17 MR. SUTTON: I don't have any questions, your Honor.

18 THE COURT: All right. Thank you. You can take your
19 seat back with counsel.

20 Could I have Kim Clark come forward please.

21 Mr. Sutton, could you pass up the paperwork that you have
22 showing Ms. Orem as the officer of the corporation just so the
23 Court can take a look at it please.

24 All right. You can swear the witness. Thank you.

1 (Witness sworn by the Clerk.)

2 THE COURT: All right, ma'am. Could you give us your
3 full name please.

4 THE WITNESS: Kimberly Clark.

5 THE COURT: And you'll need to speak up just a little bit
6 so the court reporter can get everything down and so Mr.
7 Sutton can hear what you have to say. Ms. Clark, tell the
8 Court what it is that you do for a living.

9 THE WITNESS: Magistrate assistant to Magistrate Darrell
10 Shull.

11 THE COURT: All right. And the Court has before it a
12 power of attorney that was executed by John Orem and it
13 appears to have been done on or about November the 8th 2018
14 when Regional Bonding apparently posted a bond in your office.
15 Do you have recollection of that date?

16 THE WITNESS: Yes, ma'am.

17 THE COURT: All right. Now, Ms. Orem has testified here
18 today that she did come to your office and that she and her
19 husband were standing outside when they were in front of the
20 camera and you buzzed them to come in but she couldn't recall
21 exactly where her husband might have been standing. So my
22 question to you is when you looked out -- well let me ask you
23 this. Tell the Court how you came to know someone was there
24 that wanted access to the office?

1 THE WITNESS: There's a buzzer that she buzzed to get
2 back to our area and she buzzed my buzzer.

3 THE COURT: All right. And is there any way that you can
4 view who's on the other side before you allow access?

5 THE WITNESS: Yes, ma'am. We have monitors right in
6 front of my desk to see who's there.

7 THE COURT: All right. And who were you able to see?

8 THE WITNESS: Ms. Orem.

9 THE COURT: And what did you do then?

10 THE WITNESS: I opened the door.

11 THE COURT: And then what happened?

12 THE WITNESS: And then I saw Mr. Orem come in behind her
13 and both of them came back to my area.

14 THE COURT: All right. So were you a little surprised
15 when that happened?

16 THE WITNESS: Yes, ma'am.

17 THE COURT: All right. And did Mr. Orem have much to do
18 with the interaction with you in terms of posting bond or did
19 he just stand there?

20 THE WITNESS: No. He basically was directing Ms. Orem
21 how to fill out the paper.

22 THE COURT: All right. And was there a question asked
23 about a power of attorney at that time?

24 THE WITNESS: Not at that time, no.

1 THE DEFENDANT: All right. So what happened during that
2 interaction that you had with Mr. and Mrs. Orem about the
3 bond?

4 THE WITNESS: I told them both that the magistrate was
5 out of the office at the time. He was currently down in the
6 arraignment room doing an arraignment and I said he's not
7 going to be able to sign this for awhile. Do you want to have
8 a seat and wait he'll be back which is our normal procedure
9 when bondsman come in and John said no we'll just come back.
10 Just call me when it's ready and you can just fax it over to
11 the office.

12 THE COURT: All right. So then what happened?

13 THE WITNESS: They left.

14 THE COURT: And did anyone come back with any
15 documentation or other information related to the bond?

16 THE WITNESS: I contacted -- when my magistrate came back
17 he said we need a power of attorney. So I contacted the
18 office and spoke with Mr. Orem and told him we needed the
19 power of attorney and he said that's not necessary -- you
20 don't necessarily need that but it's whatever the magistrate
21 wants and we hung up and he brought it over to me.

22 THE COURT: Okay. Thank you. I don't have any other
23 questions. Mr. Sutton, do you have anything you'd like to
24 ask?

1 MR. SUTTON: Yes, just briefly. When Special Services
2 posts bond who do you normally see on their behalf?

3 THE WITNESS: Tyler.

4 MR. SUTTON: All right. I mean 99 percent of the time?

5 THE WITNESS: Yes.

6 MR. SUTTON: Okay. So does he pretty much conduct all
7 the face-to-face agent bonding business on their behalf?

8 THE WITNESS: Yes.

9 MR. SUTTON: How often do you see Mr. Orem?

10 THE WITNESS: Very rarely.

11 MR. SUTTON: And how about Mrs. Orem?

12 THE WITNESS: That was the first time I'd seen her.

13 MR. SUTTON: Okay. And normally if property's used as
14 the basis for the bond a power of attorney's not necessary; is
15 that correct?

16 THE WITNESS: I don't know that rule specifically myself.
17 I was just going by what my magistrate had instructed me to
18 do.

19 MR. SUTTON: You've worked for prior magistrates;
20 correct?

21 THE WITNESS: Yes.

22 MR. SUTTON: Did they require that?

23 THE WITNESS: Most of the time it was just automatically
24 given to us so no. I mean it was just some of them

1 automatically handed them to us, some of them don't.

2 MR. SUTTON: Okay. But it would depend on what's the
3 backing for the bond; correct?

4 THE WITNESS: Yes.

5 MR. SUTTON: I have no further questions.

6 THE COURT: Okay. Thank you.

7 Did it appear to you when Mr. and Mrs. Orem appeared in
8 your office that there was a definite desire to conceal Mr.
9 Orem's presence from you until he was in the office?

10 THE WITNESS: Yes.

11 THE COURT: Thank you. I don't have any further
12 questions. Thank you.

13 MR. SUTTON: Can I ask one more question, your Honor?

14 THE COURT: Of course. I'm sorry.

15 MR. SUTTON: Would you -- if you had seen two people
16 standing there and had been able to see that it was Mr. Orem
17 and Mrs. Orem you still would have buzzed them in; correct?

18 THE WITNESS: No, I would have probably went to the door
19 and allowed just Sher to come back.

20 MR. SUTTON: Did you ever ask Mr. Orem to leave?

21 THE WITNESS: I did. When I said the magistrate's not
22 here, you know, if you guys want to wait and I was trying to
23 direct him without trying to be rude to get out from back in
24 the secured area.

1 MR. SUTTON: Did you ever say Mr. Orem I believe it would
2 be best if you waited outside?

3 THE WITNESS: No, I did not.

4 MR. SUTTON: Okay. Thank you.

5 THE COURT: You're free to go. Thank you so much.

6 Appreciate you coming up.

7 Mr. Sutton, since I'm assuming that you were the attorney
8 who helped with the change of names of the director, the
9 incorporator, the president, secretary, treasurer, and
10 vice-president do you remember what day that was done?

11 MR. SUTTON: Your Honor, I do not. It was filed with the
12 secretary of state so I don't know when they actually
13 processed the paper. Sometimes they do it within a week.
14 Sometimes two weeks. It depends on who's there. You'll call
15 up and ask about the process and for some reason they're on
16 vacation. The paperwork was filed probably in the early part
17 of November. When they actually completed it I can't
18 remember. I finally did a search probably about a week or two
19 ago to see if everything had been confirmed and that's when I
20 saw on the secretary of state's page that it was up and that's
21 when I talked to your assistant and said well I saw it on the
22 secretary of state's page. I've seen it. You can view it and
23 then that's when I went back to my office here recently and
24 printed out what you have before you. So the date in which

1 they actually did it they don't really -- they don't tell you
2 that information. You just kind of have to, you know, go and
3 check. The way I verify I go check the website to see has it
4 been on the website.

5 THE COURT: All right. So you don't have any information
6 as to whether or not on November the 8th of this year Mr. Orem
7 was still the president or his wife was the president?

8 MR. SUTTON: No, your Honor, and I know that I didn't
9 direct them that they ought to state that that transaction has
10 been updated by the secretary of state.

11 THE COURT: I understand. Thank you so much. All right.
12 So the Court is faced with some of the same issues that it had
13 before and that is that when people play games and hide and
14 try to gain access to an office without full disclosure and
15 they're doing court business and at least Mr. Orem knew that
16 he was not supposed to be engaging in the bonding business.
17 The Court accepts with some scepticism his wife's testimony
18 here today that she didn't know either. I find that difficult
19 to believe. So I'm still faced with the situation of whether
20 or not that's being of good moral character and it simply is
21 not.

22 The Court requires only one thing to be courteous,
23 professional, and honest. That doesn't mean that you have to
24 leave your advocacy outside the courtroom but your clients

1 were not attorneys. They were appearing to do a job that the
2 Court has to allow them a license to do and one of the
3 statutory requirements is that this Court must find that this
4 person seeking the privilege or that license or that renewal
5 is of good moral character. And when you hide outside of a
6 magistrate's door and intentionally conceal the identify of a
7 person who knew he wasn't supposed to be engaging in the
8 bonding business and then who ultimately signed a power of
9 attorney as the president and filled out the form that was
10 required by that magistrate that's not good moral character.
11 And I appreciate the fact, Mr. Sutton, that you have attempted
12 to get this thing through and advised your client that perhaps
13 they would be better served with a new president, secretary,
14 treasurer, vice-president, and agent but I'm not at all
15 confident that Sher Orem is of good moral character when she
16 allows her husband to manipulate the rules of the Court.

17 MR. SUTTON: Your Honor, if I could speak to that. I
18 believe that as Ms. Clark testified she had never seen Ms.
19 Orem actually do a bond and I believe Ms. Orem was not
20 familiar with the process and she had asked John to come along
21 just to make sure that it was done properly. I don't think
22 she was trying to manipulate the system. I just think she's
23 generally in charge of handling the calls when they come in
24 and dispensing them out to Tyler however Tyler was not

1 available. He was out of town so she --

2 THE COURT: Then wouldn't you agree that when you're
3 already on thin ice with the Court you just don't get paid to
4 write that bond? Wouldn't that be the better choice?

5 MR. SUTTON: It might be, your Honor, but I think she was
6 going in to write the bond. She wrote the bond. She was the
7 agent on the bond. At that time the document required that,
8 you know, that was not a document that was usually I think
9 normally required under those circumstances but Magistrate
10 Shull who was a new magistrate required it. They went back,
11 they pulled up the document that they had and, you know, it
12 was then delivered to him. I don't think there's anything
13 underhanded trying to be done. I mean clearly when -- I'm not
14 sure how much that camera showed but it's, you know, being
15 viewed but clearly when the door is opened it's not like it's
16 going to be any surprise that Mr. Orem's going to be standing
17 there so it's not that it can be concealed.

18 THE COURT: But you heard the testimony of Ms. Clark and
19 she said it was her belief that Mr. Orem was intentionally not
20 being seen by the camera number one and number two when you
21 asked the question -- you see the Court already knew the
22 answer you didn't -- but you asked the question of Ms. Clark
23 would you have let him in if you had known he was there and
24 she said no and then you asked another one that was did you

1 ask him to leave and she said I tried.

2 MR. SUTTON: That's not what -- she didn't say she -- she
3 asked both of them to leave 'cause the magistrate wasn't --

4 THE COURT: Correct.

5 MR. SUTTON: She denied -- she never asked Mr. Orem to
6 leave or said Mr. Orem you can't be here. She specifically
7 said that, your Honor.

8 THE COURT: All right. I understand.

9 MR. SUTTON: And this is her perception as looking at a
10 small camera.

11 THE COURT: All right. I get it. I understand but I
12 find her testimony to be credible and the way that the Court
13 understands the testimony she felt that she had been -- she
14 didn't say this but I judged her body language -- and the way
15 she was answering the questions that she felt she was taken
16 advantage of and manipulated and she let somebody in she knew
17 she wasn't supposed to allow in because the courthouse is a
18 small community and do know typically when someone is not
19 supposed to be writing a bond and we work with one another.
20 And what I cannot understand or wrap my head around is that
21 Mr. Orem certainly knows we have cameras everywhere in the
22 courtroom and in the courthouse so someone certainly is going
23 to know when he intentionally comes in and engages in the act
24 of bonding and I will read again from the transcript from the

1 last hearing. "He is not to engage in any act of bonding
2 until we're back before the Court and the Court has the final
3 determination on the merits of the petition." And your client
4 answered that he understood.

5 In fact, the Court specifically addressed him and said do
6 you understand and he said yes and I asked you Mr. Sutton do
7 you understand and you said yes, your Honor. So the two of
8 you knew that he should not have been engaged in the bonding
9 business and the Court just doesn't find it credible.

10 MR. SUTTON: Your Honor, my client, Ms. Orem, here she
11 did the bonding. He just assisted her and provided her with
12 information.

13 THE COURT: He filled out and signed the power of
14 attorney form.

15 MR. SUTTON: Well, at the time he was the director -- or
16 he was the president. He was the only person that could sign
17 that.

18 THE COURT: And I would also indicate that Ms. Clark
19 testified under oath that he pretty much led her through the
20 whole thing she wasn't doing it and by her own testimony she
21 said she didn't really know what to do. So he was engaging in
22 a bonding business and that's the finding of the Court and
23 that was in direct disobedience of the Court's order. And so
24 the Court is now faced with a situation of not wanting to

1 interfere with a business enterprise that's a lawful
2 enterprise but I simply cannot find based on the totality of
3 the circumstances that the current president is not enough
4 removed from her husband, John Orem, to not do what he tells
5 her to do, that was just two weeks ago -- three at the most --
6 that she was doing what he told her to do by her own
7 admissions under oath and clearly he knew he was disobeying a
8 Court's order. And I cannot find -- and the way that the
9 statute reads is or who is not known to be a person of good
10 moral character and I don't think I can make that finding. So
11 I'm denying the petition for renewal. We're off the record.

12 (Hearing concluded at 12:35 p.m.)

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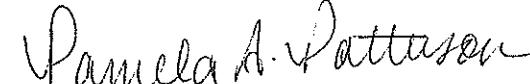
1 STATE OF WEST VIRGINIA

2 COUNTY OF BERKELEY, TO-WIT:

3 I, Pamela Patterson, an Official Reporter of the Circuit
4 Court of Berkeley County, West Virginia, do hereby certify
5 that the foregoing is a true and correct transcript of the
6 proceedings had and testimony taken in the action of In re:
7 18-P-121 Petition to Renew Bonding Authority on Wednesday the
8 28th day of November 2018.

9 I hereby certify that the transcript within meets the
10 requirement of the Code of the state of West Virginia, 51-7-4,
11 and all rules pertaining thereto as promulgated by the Supreme
12 Court of Appeals.

13 Given under my hand this 30th day of December 2018.

17 
18 _____

19 Official Reporter, Circuit Court of
20 Berkeley County, West Virginia
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IN THE CIRCUIT COURT OF BERKELEY COUNTY, WEST VIRGINIA
23rd Judicial Circuit

IN RE: PETITION FOR RENEWAL
OF BONDING AUTHORITY

CASE NO. 18-P-121

TRANSCRIPT OF PROCEEDINGS HELD before the Honorable
Faircloth, Judge, on the MOTION FOR RELIEF FROM
in the above-styled matter on Friday the 22nd day of
at 1:45 p.m.

APPEARANCES:

On Behalf of the Petitioner:

MARK SUTTON, ESQUIRE
125 E. King Street
Martinsburg, West Virginia 25401

GREGORY KENNEDY, ESQUIRE
Franklin & Prokopik
100 South Queen Street Suite 200
Martinsburg, West Virginia 25401

LANDON MOYER, ESQUIRE
Franklin & Prokopik
100 South Queen Street Suite 200
Martinsburg, West Virginia 25401

1 (Friday, February 22, 2019 1:45 p.m.)

2 THE COURT: All right. Next case 18-F-121 in re:
3 Special Services Bureau Incorporated. Could I have counsel
4 identify themselves for the record please and who it is they
5 represent in this matter.

6 MR. SUTTON: Your Honor, Mark Sutton on behalf of Special
7 Services Bureau.

8 MR. MOYER: Your Honor, Landon Moyer here also on behalf
9 of Special Services Bureau.

10 MR. KENNEDY: Your Honor, Gregory Kennedy also on behalf
11 of Special Services Bureau.

12 THE COURT: All right. And, Mr. Sutton who is it that
13 will be leading the charge so to speak or taking up the cause
14 this afternoon?

15 MR. SUTTON: I think Mr. Kennedy is going to take the
16 lead on that. I just happened to inherit my seat from my
17 previous two cases.

18 THE COURT: All right. I understand. All right. Mr.
19 Kennedy, it's my understanding that we have before the Court
20 your motion for relief from judgment, correct?

21 MR. KENNEDY: That is correct, your Honor.

22 THE COURT: All right. And I will say that we have
23 reviewed your motion as well as had an opportunity to view the
24 video that you provided and I thank you for that. And we do

1 concur that it appears from the video that the witness who
2 testified last time from Mr. Shull's office was in a position
3 from that vantage point to be able to see who was entering and
4 apparently overlooked the fact that in fact Mr. Orem was not
5 being concealed by his wife nor did there appear to be an
6 attempt that Mrs. Orem was trying to conceal the identity of
7 her husband. So the Court is not going to consider at this
8 point moving forward any of the testimony of Magistrate
9 Shull's assistant who testified last time.

10 And the Court in looking at its order that was entered on
11 December the 4th 2018 certainly will amend that order at
12 page 4 to strike that the Court further finds that the Orem's
13 intentionally concealed John Orem from the court security
14 camera so that he could accompany his wife into Magistrate
15 Shull's office for the sole purpose in engaging in the bonding
16 business by instructing his wife on how to write the bond. So
17 the fact of the concealment will come out of the order and on
18 the following page first full paragraph subsection 2 the Court
19 will also amend the order to take out that her statement that
20 she was not working in concert with Mr. Orem to conceal his
21 identity from Magistrate Shull's assistant on November 8, 2018
22 being part of the reason that the Court did not find the
23 credibility with Sher Orem's testimony. So with those
24 amendments having been made the Court obviously will hear from

1 you with regard to your motion but those matters the Court has
2 already disposed of based upon the information that you
3 provided to the Court.

4 MR. KENNEDY: Well, your Honor, on behalf of my client I
5 would thank the Court for evaluating the motion for relief as
6 well as the thumb drive that did provide the video evidence
7 that we were desirous of having the Court review. So as it
8 relates to the modification of the prior order relative to
9 that being what the Court has found as credible evidence and
10 now the Court is amending we do welcome that thank you very
11 much for that thorough review.

12 Your Honor, there also was some testimony that was given
13 by Mrs. Clark as it related to several other issues that if
14 possible we'd like to see if we could clarify also for the
15 benefit of the Court today as it related to the amended
16 petition. Specifically, there were questions about the entity
17 itself and what point in time had Mrs. Orem became the
18 president and various other officers by modification documents
19 that were filed with the secretary of state. There also were
20 questions and testimony that was taken as it related to the
21 bond that was submitted on that date in question which was
22 November the 8, 2018 and the subsequent power of attorney. I
23 believe it was referred to as power of attorney Number 2251
24 that was brought back to the magistrate's office in the

1 afternoon after the meeting in the office. There are several
2 documents I think that if the Court were able to evaluate
3 would also clarify some issues that are related to that.

4 Your Honor, I would also be remiss and I apologize if you
5 find that this may be redundant but if we start back at the
6 first block as you articulated at all the prior hearings we
7 are here under the statutory framework that is provided by
8 51-10-8 which establishes the elements necessary for the
9 qualifications of bondsmen in counties and circuits in the
10 state of West Virginia and as you're aware the Court is to
11 take into consideration both the financial responsibility and
12 moral qualities of the person so applying. As you're aware
13 our amended petition on behalf of Special Services Bureau
14 Incorporated and the two agents that are making application,
15 both Mrs. Orem and Tyler -- I apologize I forgot the last name
16 here -- Cates. Sorry. So, your Honor, in further looking at
17 the statute it does qualify and quantify what moral qualities
18 are suited and it specifically states that a person who's
19 never been convicted of an offense involving moral turpitude
20 and is known as a person of good moral character. With that
21 said, your Honor, there was a prior report by probation that
22 was prepared I believe and one that's been amended in
23 conjunction with the drug test that was required and I believe
24 adhered to this morning. I believe that Mr. Sutton had the

1 initial results of that so I'll defer to him to speak to that.

2 THE COURT: Well, at this point the Court did order the
3 drug testing as the Court assured it would do with all such
4 applications for renewal or initial applications. The problem
5 that was presented when Mrs. Orem came to court initially as
6 the new president, vice-president, I believe secretary and
7 treasurer of the corporation was that the Court had no prior
8 notice that she then was assuming all of the leadership and
9 management duties of the corporation. Therefore the Court did
10 not have an opportunity to advance drug test her and after we
11 got into the hearing the Court determined that there was
12 enough information there without the testing to make a
13 determination. So today we had plenty of notice as to who the
14 officer or officers were and so we did order the drug test.
15 It came back negative. So we understand that makes up that as
16 dispositive of that particular issue before the Court.

17 MR. KENNEDY: Thank you, your Honor. I'll just make
18 short shrift of the next document and I believe that this has
19 been e-filed by the probation department on January 30th and
20 that was the updated report that was prepared and, your Honor,
21 I will state that Ms. Buckley in preparing this document has
22 run a criminal investigative background on both applicants and
23 found that there are no violations and that there is ample
24 financial wherewithal as shown on the financial responsibility

1 documents and incorporated therein.

2 THE COURT: And the Court does agree that according to
3 the report that there does appear to be substantial financial
4 holdings to secure any bonds that would be written and
5 believes that it passes muster so to speak with the
6 requirements of the statute.

7 MR. KENNEDY: Very good. Thank you, your Honor. Your
8 Honor, in reviewing the transcript from the November 28th
9 hearing it also appears that your Honor was concerned about a
10 continuing affidavit so that there was no gap in the affidavit
11 that was prepared when submitted with the amended petition.
12 Your Honor, as you well know our last hearing which was
13 continued to today was frustrated by Mother Nature as we had
14 snow on the 1st of February and although the school children
15 were probably happy to be out it does nothing but complicate
16 our schedules. With that said, your Honor, if I could hand
17 this to the Court's bailiff this was an affidavit that was
18 signed and prepared on January the 31st to ameliorate any
19 concerns of the Court that were echoed at the November 28th
20 hearing.

21 THE COURT: All right. And this is now with regard to
22 Sher Orem, correct?

23 MR. KENNEDY: That's correct. Yes.

24 THE COURT: All right. And do we have an updated one

1 with regard to the other individual --

2 MR. KENNEDY: We do not, your Honor, and I'm remiss in
3 not bringing that. We will have that produced to the Court no
4 later than on Monday and I do apologize.

5 THE COURT: All right. Let me return the original to you
6 so that it can be filed on behalf of Sher Orem.

7 MR. KENNEDY: Very good. And, your Honor, would you want
8 me to wait and file both of those at the same time or --

9 THE COURT: It's your pleasure. I think it makes a
10 better record if you do it as you have them.

11 MR. KENNEDY: Okay.

12 THE COURT: So given that Mrs. Orem is president and the
13 officers of the corporation and given that we have her
14 affidavit it probably should be filed forthwith.

15 MR. KENNEDY: Very good. Your Honor, this may seem like
16 a technicality because this was prepared in advance of the
17 last hearing and we are here today the 22nd of February would
18 you like it re-executed with the date it was filed?

19 THE COURT: Given that we had a date previously set I
20 don't think that the statute contemplates that we need to redo
21 affidavits just to get them up to speed when a hearing has
22 been continued.

23 MR. KENNEDY: Very good.

24 THE COURT: So as long as you do it for the time of the

1 last hearing with regard to anyone else who is going to be
2 writing bonds that is sufficient.

3 MR. KENNEDY: Thank you, your Honor. Your Honor, in
4 regard to the issues that we were speaking of the change of
5 all of the officers that the Court detailed was for the
6 corporation Special Services Bureau I've just handed to your
7 bailiff and he's handed to you the documents that we received
8 via e-mail from the West Virginia Secretary of State's Office
9 as it related to all filings within their office on behalf of
10 Special Services Bureau. Your Honor, as I've always told
11 people at closings with most federal documents it's always
12 easier to go to the rear of the documents and I believe if you
13 go three pages from the end of that document these are --
14 probably I handed them to you sequentially -- the last three
15 pages would constitute the application to change officers
16 except that it was filed and as you can see on the dates that
17 it was filed November 1, 2018 and based on the document itself
18 that was the effective date of the filings and transition to
19 the new officers.

20 THE COURT: Now it appears however that John Orem signed
21 on the second page on November the 1st 2018; correct?

22 MR. KENNEDY: He did, your Honor, that is correct. If I
23 would have had the foresight to bring the instructions for
24 this form the then constituted officer/director or Sher Orem

1 as it may be is required to sign it and it does effect the
2 change. So that is the requirement for his signature as of
3 that date he was still working with prior officers and
4 directors, your Honor.

5 THE COURT: So given that it was filed on November
6 the 1st is it your contention that that is the date that we
7 should be using looking forward to what occurred on -- or
8 looking backward actually to what actually occurred on the
9 date in question which was November the 8th 2018?

10 MR. KENNEDY: Yes, your Honor. It's my understanding
11 that these documents even though they are standard forms
12 created by the West Virginia Secretary of State they are
13 self-effecting and effective on the date that they were filed
14 unless they are directed otherwise. So, yes, I believe it's a
15 fair representation of the receipt of these documents on
16 November the 1st 2018 by the secretary of state and it's
17 filing therein and constitutes the effective changes of the
18 record shareholders, *et cetera*.

19 Your Honor, if we could turn to what you just
20 foreshadowed the date in question November 8, 2018.

21 THE COURT: Correct.

22 MR. KENNEDY: Once again we appreciate the review of the
23 Court to clarify the ambiguity of the testimony related to my
24 client and her presenting to the office for the purpose of

1 bond issuance and, your Honor, I'll hand to the bailiff and
2 ask if he would present to your Honor a document which is just
3 referred to as page 2. It's a state created bail agreement
4 document which my understanding is routinely submitted to the
5 magistrate's office for the purpose of complying with having a
6 bond issued. It was this application, your Honor, I believe
7 that constituted the nature of the business of the visit to
8 the office on November the 8th 2018. And, your Honor, I did
9 provide it to you so that you can see that the signature and
10 the handwriting is that of Mrs. Orem who had presented
11 materials for the issuance of the bond.

12 THE COURT: Now this is a consent to apply a deposit;
13 correct?

14 MR. KENNEDY: That is correct. Yes, your Honor.

15 THE COURT: So that is not the power of attorney that was
16 referenced in the Court's prior order that was signed by John
17 Orem?

18 MR. KENNEDY: Well, it was not signed by John Orem. This
19 was the document that was submitted at the initial visit and
20 then a telephone call was made to my client's office wherein a
21 power of attorney was returned to the Court, your Honor.

22 THE COURT: All right. And that was returned by Mr.
23 Orem; right?

24 MR. KENNEDY: That's my understanding, yes.

1 THE COURT: And he prepared the paperwork I believe.

2 That was the testimony at the last hearing that he prepared
3 all the paperwork in Magistrate Shull's office or was
4 directing his wife how to --

5 MR. KENNEDY: I believe he provided assistance to his
6 wife on how to prepare. Your Honor, if I may the power of
7 attorney that you just referenced is the power of attorney
8 2251. I'll go ahead and present this to your bailiff and ask
9 that he give this to you. And, your Honor, if you could just
10 provide me a little deference here I'd like to explain to you
11 as you probably are aware what these documents really are.

12 I'm sure that different companies have different
13 documents but it's been the corporate practice of my client
14 over the years to actually go to a printer and have
15 pre-populated forms created so that if they have to grab a
16 booklet to produce a bond and those bonds could be in the
17 denomination of 5,000, 10,000, 25,000, 50,000, 100,000 or
18 150,000 there are various booklets that are kept in the office
19 that are in triplicate that certain information can be put
20 relative to the criminal matter signed and presented for
21 purposes of having the bond issued.

22 Your Honor, I will represent to the Court that it is my
23 client's corporate practice to order these and in bulk for a
24 five-year period such that the documents that are in this

1 booklet here that I would like to present the Court for
2 inspection as well as 2251 that the Court has a copy in front
3 of were obtained in 2015 and if you'll notice in the upper
4 right-hand corner it says valid and posted until December 31,
5 2020. So you can see that the corporate practice would then
6 be for the next timeframe 2021 until 2025 another batch if you
7 will be ordered from the publisher.

8 So, your Honor, I'll hand this to your bailiff and he can
9 present it to you. It's a clearer version of a blank power of
10 attorney in color and the reason I provide the corporate
11 formality of how my client orders it I don't think there is
12 any dispute in 2015 when this booklet was ordered Mr. Orem was
13 in fact the president. So the reason I've kind of gone around
14 the woodshed, your Honor, to get back to the point in question
15 is that the fact there was a representation Mr. Orem had in
16 fact signed this document and I don't believe that to be
17 technically correct as it related to the issues in front of
18 the Court. I will say that in 2015 he did sign something that
19 was produced and made art ready for a printer that made it's
20 way to these pre-populated forms but as far as the signator on
21 power of attorney 2251 that was executed by the executing
22 agent who is clearly Sher Orem on the document that I provided
23 to the Court.

24 Your Honor, I go through this exercise to explain that as

1 you know corporate existence and corporate formalities are to
2 be adhered to but the presentation of this document and its
3 effectiveness to create surety on behalf of Regional Bonding
4 is in no way shape or form predicated on the signature that is
5 pre-populated on the document. Rather if we look at the face
6 of the power of attorney which is the same language on each
7 denomination it clearly states that the authority and created
8 hereunder by the corporation is to appoint the named executing
9 agent who signed such a power of attorney and they are given
10 all power and authority to sign on behalf of the company and
11 affix the corporate seal and then it becomes binding upon the
12 company and they would hereby ratify and confirm all acts of
13 the attorney of fact. The second paragraph also talks about
14 the attorney -- the authority of the attorney of fact.

15 So, your Honor, the document that was brought back in the
16 afternoon, the power of attorney 2251, it was properly
17 executed by Mrs. Orem as the executing agent and the signature
18 of Mr. Orem was not a signature that was affixed to the
19 document on such date but it was created years before for the
20 purpose of artwork for a printer to create pre-populated
21 forms.

22 THE COURT: It would not have been binding though had
23 that signature not been on it; correct?

24 MR. KENNEDY: The executing agent?

1 THE COURT: No, not the executing agent. The power of
2 attorney that was authorized by John Orem at that point
3 showing president next to his name this power of attorney
4 would not have been valid if he hadn't signed it at some point
5 whether it was pre-populated or not. So in other words if
6 that had been left blank it wouldn't have been what Magistrate
7 Shull required for the bond.

8 MR. KENNEDY: Your Honor, I think if you could maybe walk
9 me back. You're saying that this power of attorney, the
10 original, which would be closer to the first copy on the
11 booklet that I provided to you in color you're saying that it
12 --

13 THE COURT: I'm referring to 2251.

14 MR. KENNEDY: Yes, ma'am.

15 THE COURT: Had that been blank and it had not had the
16 signature of John Orem above the typed name John W. Orem
17 President then clearly the power of attorney even if it had
18 been filled out everywhere else would not have been valid;
19 correct?

20 MR. KENNEDY: I would disagree with that, your Honor.

21 THE COURT: Well, how would a blank unsigned power of
22 attorney be valid? I mean I could type all day long that I
23 have a power of attorney for someone but if that person
24 doesn't sign it I don't have a power of attorney. That's

1 pretty basic.

2 MR. KENNEDY: Well, I think it's even more basic, your
3 Honor, is the fact that it clearly states in clear and
4 unambiguous terms in the first and second paragraph that the
5 authority whether it be actual ostensible or apparent
6 authority is invested in the executing agent. No where in
7 here does it say any -- it all contemplates the corporation
8 has duly constituted appointing the executing agent as its
9 true and lawful attorney of fact with full power and authority
10 to sign the company's name and any such signature shall be
11 binding upon the company. So as far as this being a document
12 -- maybe a better way to explain my position is if John W.
13 Orem signed this document which was pre-populated in 2015 and
14 Mr. Orem had unfortunately met his demise in 2016 this
15 document would not be invalid. This document is created as a
16 way where a corporation denotes its full authority to execute
17 in the person denoted and defined as the executing agent.

18 THE COURT: Then anybody could steal this, this form,
19 this book you just gave me and fill out the left-hand side of
20 it and bond people out and that's just absurd. That's not
21 what anyone ever intended with that document and you know
22 that.

23 MR. KENNEDY: Your Honor, you could say the same thing
24 about my personal checking account. If I left it in my car

1 someone could steal it and write checks on my --

2 THE COURT: Exactly.

3 MR. KENNEDY: And there's uttering. There's a crime. If
4 someone who is not an executed agent who does not have the
5 apparent, actual, or real authority to execute that document
6 there's a separate remedy for that.

7 THE COURT: But it wouldn't be a valid document if it
8 doesn't have a valid signature.

9 MR. KENNEDY: But, your Honor, we need to step back and
10 look at what we're dealing with here. What we're dealing with
11 here is the statute that creates the authority for the
12 applicant as Special Services Bureau to post bonds in a
13 judicial circuit and what is happening here is this is
14 actually the power of attorney for the corporation it is in no
15 way a document of the president of the corporation. It is the
16 corporate grant of authority to be bound to the executing
17 agent.

18 Your Honor, if I could I would just state that I believe
19 -- we'll look at another document that may have an actual
20 effective signature on it. I'm looking at my West Virginia
21 Driver's license and it was signed by Earl Ray Tomblin who is
22 no longer the governor of West Virginia and I don't believe
23 that that invalidates my driver's license. I think that when
24 this form was created Mr. Orem signed it. It was

1 pre-populated and it was created for ease that it could be
2 taken to any circuit that an agent might write in and I
3 believe that based on the standing order in any circuit in
4 West Virginia that the company is authorized to do business I
5 think they would make sure that the executing agent also is
6 one and the same as the authorized agent for the bonding
7 company.

8 THE COURT: So is your argument that the person who
9 signed this document and we're talking specifically about the
10 power of attorney Number 2251 was not transacting business as
11 a bonding agent when this document was tendered to Magistrate
12 Shull?

13 MR. KENNEDY: That's not what I represented. I just
14 merely said that --

15 THE COURT: Well, then my question to you is was he or
16 wasn't he transacting business as a bonding agent when he hand
17 delivered a power of attorney signed by him to Magistrate
18 Shull for \$30,000? That's pretty simple. Yes or no.

19 MR. KENNEDY: Well, your Honor -- well I think the
20 question is incorrect because the question is -- well your
21 first question was did the person who signed were they
22 transacting business as an authorized person as a bonding
23 agent --

24 THE COURT: Right.

1 MR. KENNEDY: -- and that answer is correct. Sher Orem
2 signed it as an executing agent and the language on the power
3 of attorney --

4 THE COURT: I'm not asking about that and you know that.
5 I'm asking about to the right-hand side of the document you
6 tendered to this Court that bears the signature of -- whether
7 pre-populated or not -- of John Orem represents an act in
8 bonding people in Berkeley County, West Virginia and that's a
9 yes or it's a no.

10 MR. KENNEDY: I think the answer's no, your Honor.

11 THE COURT: Okay.

12 MR. KENNEDY: I think it was the corporate president in
13 2015 who ordered corporate forms and I believe --

14 THE COURT: And maybe the better practice, wouldn't you
15 agree, would be to leave it blank because people die, people
16 change positions, officers change, and we could have just had
17 Sher Orem who was the operating president at that time based
18 on your own statement earlier that when the documents were
19 presented to the secretary of state's office November 1, 2018
20 she became the acting president in name and in deed. So she
21 could have just struck out his name, couldn't she have, and
22 written her name instead?

23 MR. KENNEDY: She could have, your Honor, but there is
24 absolutely no requirement under the statute that that act had

1 to be taken.

2 THE COURT: I'm not talking about that. I'm talking
3 about transparency and the fact that Mrs. and Mr. Orem made a
4 decision to change her name in all respects as the officer of
5 the corporation and Mr. Orem went with her after that date to
6 Magistrate Shull's office based upon the testimony the Court
7 heard last time and assisted her almost entirely in helping
8 her to write the bond and by Mrs. Orem's own testimony as the
9 Court recalls it she did not know how to write the bond. The
10 other gentleman in the office was not there. She brought her
11 husband with her to tell her how to write the bond and she
12 testified last time according to the Court's recollection that
13 that was engaging in bonding business. Now we find out --
14 which she didn't know before and I understand that -- but now
15 we find out that in fact the change of officers had occurred
16 eight days prior or seven days prior. So he shouldn't have
17 even been required -- based on your argument here today as it
18 relates to Mr. Tomblin being governor of the state at one time
19 and now not -- he shouldn't even have been involved in
20 bringing the paper to the magistrate's office or accompanying
21 his wife there.

22 MR. KENNEDY: Under what theory, your Honor?

23 THE COURT: The theory you advanced to the Court this
24 afternoon.

1 MR. KENNEDY: No, I merely said the fact I have Earl Ray
2 Tomblin on my license and he's no longer a sitting governor
3 does not invalidate my license. I can think of no lawful
4 requirement that says a person that works in an office or
5 might be a spouse of someone cannot accompany them into a
6 public facility for purposes of delivering paperwork.

7 THE COURT: Well, I think a public office is slightly
8 different than a privately-owned corporation that would be the
9 Court's interpretation of that. So let's move on. We've got
10 your argument. The Court will take that under advisement.

11 MR. KENNEDY: Your Honor, the next document I would ask
12 the indulgence of your bailiff to deliver to the Court this is
13 a petition and order to renew authority for bonding privileges
14 that was entered by Judge Tucker on January 24, 2019 in favor
15 of Mrs. Orem and my client for transaction by the business in
16 the 17th Judicial Circuit so...

17 THE COURT: Okay. And so what is this supposed to tell
18 the Court that I'm bound by Judge Tucker's ruling?

19 MR. KENNEDY: No, your Honor, that's not it. I would
20 just reference Code 57-1-5 which states that I can provide
21 notice to the Court of an official act and --

22 THE COURT: And I appreciate that. You could have also
23 provided her notice of my order that was dated December the
24 4th 2018 before she signed it on January the 24th 2019 but

1 apparently you chose not to let her know about my order so
2 this is of no relevance to the Court.

3 MR. KENNEDY: I disagree, your Honor.

4 THE COURT: You're respectfully allowed to do that.

5 MR. KENNEDY: And, your Honor, you bring a great point up
6 and that is there's absolutely no positive requirement for an
7 applicant to give the Court in which their petition is
8 tendered any action in any other jurisdiction in West
9 Virginia. As a matter of fact, as your Honor is aware I think
10 I read this in one of the prior transcripts the 51-10-8
11 actually constitutes the statutory elements of the issuance of
12 a petition and the order that was entered by the sitting Judge
13 Patrick Henry in 1985 clearly states that by local rule until
14 it's modified --

15 THE COURT: We don't have local rules by order of the
16 Supreme Court at this point. Local rules have been abolished.

17 MR. KENNEDY: Well, your Honor, that local rule has been
18 actually reviewed and interpreted and applied to prior
19 applications in this circuit.

20 THE COURT: May well be but the Court's understanding
21 according to the West Virginia Supreme Court is we don't have
22 local rules anymore and the reason quite honestly is the point
23 that you're making and that is the significant concern that
24 the West Virginia Supreme Court has about inconsistent rulings

1 and holdings depending on which county that you happen to be
2 in.

3 MR. KENNEDY: Yes, your Honor.

4 THE COURT: So I have a great deal of respect for Judge
5 Henry but he was practicing under a different rule of law.

6 MR. KENNEDY: Well, your Honor, I would just point to --
7 I'm sure the Court is aware of this -- but the original
8 statute I believe is codified by the act of the legislature in
9 1959. There was an amendment to the statute in 2004 wherein
10 the legislature directed the Supreme Court of Appeals to
11 create rules for bondsman and their practices in circuits that
12 was evaluated by the West Virginia Supreme Court of Appeals
13 and they issued their order on November 25, 2009 wherein they
14 specifically stated that it was an impermissible function to
15 be delegated by the legislative branch to the judicial branch
16 and that it was akin to regulations of a profession which is
17 clearly the grant of legislative authority and the only known
18 section of that rule was for the judiciary branch is the
19 practice of law. That opinion -- well I should say the order
20 of the Court is a very good primer in the legislative history
21 of bill 414A.

22 It also talks about how this matter has been dealt with
23 in the circuits in the state of West Virginia and it also
24 effectively stated that any prior circuit court rule would be

1 effective until there were any rules promulgated by the
2 legislature. Probably the most important thing that I can
3 glean, your Honor, from the order of the Supreme Court is that
4 they believe that any judicial creation of a rule or
5 interpretation of anything that is not specifically in 51-10-8
6 is not relegated to the judiciary.

7 THE COURT: So help me understand how you want me to hear
8 that. Are you saying that this Court can't make a
9 determination about good moral character because there's no
10 rule that defines it?

11 MR. KENNEDY: Well, I'm not saying that, your Honor. I
12 think you have illustrated one of the elements. I think that
13 if we were to look at the code section itself it does give us
14 the two elements for judicial review and that is financial
15 responsibility and moral qualities. So if we take that one
16 step further I think that the legislature clearly and
17 unambiguously said that the moral quality would be constituted
18 from someone who's not been convicted of an offense --

19 THE COURT: And where are you reading that from?

20 MR. KENNEDY: I'm reading that from 51-10-8, your Honor.
21 The first sentence is rather long. If we go -- I don't know
22 if this is the same version you have if you have it online. I
23 unfortunately copied it from a book. It would be looks like
24 the second sentence that starts "such courts." Goes on to say

1 that in making such rules, regulations, and granting authority
2 taking into consideration both financial responsibility and
3 moral qualities of the person so applying.

4 THE COURT: Correct.

5 MR. KENNEDY: And that person shall be permitted to
6 engage either as principal or an agent in the business of
7 becoming surety on bonds in criminal cases who has never been
8 convicted of any offense involving moral turpitude or who is
9 known to be a person of good moral character.

10 THE COURT: So the conjunctive or, wouldn't you agree,
11 allows the Court to use two different standards in determining
12 whether the person is of good moral character? One is a
13 little more definitive and one's a little broader.

14 MR. KENNEDY: I think that -- no -- I think there's two
15 elements. Do I think that this is broad unbridled discretion
16 as to a person of good moral character --

17 THE COURT: That's not what I'm asking.

18 MR. KENNEDY: Oh. That's my answer. I don't believe
19 that's what it says.

20 THE COURT: All right. Do you have any evidence that
21 you'd like the Court to consider?

22 MR. KENNEDY: Your Honor, other than the documents that
23 we have provided today I believe prior testimony from my
24 client has been that all the information on her amended

1 petition were true and accurate to the best of her knowledge.
2 If you'd like we can swear her in and get that again. If not,
3 we could --

4 THE COURT: That's fine. We're good the way the prior
5 record is I think. How would you like to have these documents
6 entered today because you have submitted them and the Court
7 has no reason to question the validity of the documents or
8 what it is that they purport so would you like to admit them
9 as exhibits today?

10 MR. KENNEDY: I would, your Honor.

11 THE COURT: Okay. Then the Court will identify or ask
12 the clerk if she would please mark these. The first document
13 to be provided to the Court would be identified as 2018
14 Corporate Annual Report which is of several pages and the last
15 three of which are the ones that we took some argument on here
16 today. So we'll go ahead and identify that as Exhibit 1 for
17 today's hearing.

18 MR. KENNEDY: Your Honor, just for completeness of the
19 record I believe the first document I gave to the Court was
20 the affidavit and I believe the Court indicated that you would
21 like that to be re-executed from the date that it would be
22 filed with the Court.

23 THE COURT: Yes. So you can file that on your own.

24 MR. KENNEDY: Thank you, your Honor.

1 THE COURT: All right. So this one will be Exhibit 1
2 please. And then we have a two-page document that you have
3 submitted for the Court's consideration which is order to
4 renew authority for bonding privileges and that is something
5 that was signed by Judge Tucker in an unrelated case in a
6 different circuit but you did make reference to it so we'll
7 submit that as Exhibit 2 or have it identified as Exhibit 2.
8 Then we have a consent to apply deposit which was signed by
9 Sher Orem on the date that was in question which is November
10 the 8th 2018. We'll identify this as Exhibit 3.

11 Then we have the actual power of attorney Number 2251
12 which has a power amount of 51,000 that's pre-written and a
13 bond amount of \$30,000 bearing on the right-hand side the
14 pre-populated signature of John Orem President and bearing on
15 the left-hand side as executive agent Sher Orem. We'll have
16 that marked as Exhibit 4. And then we'll mark Exhibit 5 the
17 book that you provided to the Court to be able to show that
18 there were pre-populated signatures of John Orem as President.

19 MR. KENNEDY: Your Honor?

20 THE COURT: Yes.

21 MR. KENNEDY: If I may make a request would it be
22 possible if we take one power of attorney that's in color with
23 the three carbons behind it that way we can have the rest of
24 the book for business purposes. Would that be okay with the

1 Court?

2 THE COURT: Now this has a power now written on the top
3 of 11,000 and it appears -- because the Court did a brief
4 inspection of the entire book -- it appears that every one of
5 the powers in the book that I will return to you have that as
6 11,000.

7 MR. KENNEDY: Yes, your Honor, and if you further want to
8 clarify the book if you were to look at the exterior on the
9 manilla folder it has a range of the powers in it. So if you
10 want to go ahead and get that on the record we'll always be
11 able to refer to that book.

12 THE COURT: I see handwritten -- is that what you're
13 talking about?

14 MR. KENNEDY: Yes, your Honor.

15 THE COURT: Handwritten on the front cover of the book
16 would be S-10 number sign 3801 through number sign 3850. So I
17 don't see anything other than that identifying what the powers
18 are. All right. So then are you moving these into evidence
19 just for the Court's consideration today?

20 MR. KENNEDY: Yes, your Honor.

21 THE COURT: All right then. And you do not desire to
22 take any further testimony; correct?

23 MR. KENNEDY: No, your Honor. If I could clarify my
24 handwriting's horrific. I apologize. Was Exhibit 1 I noted

1 as the secretary of state documents?

2 THE COURT: Yes.

3 MR. KENNEDY: And is Exhibit Number 2 the order granting
4 bonding in the 17th Judicial Circuit?

5 THE COURT: From Judge Tucker. Yes.

6 MR. KENNEDY: Number 3 was the page 2 of the bond and
7 Number 4 was the specific power 2251 and did we actually have
8 the color copy was that also as 4 or was that a separate stand
9 alone 5?

10 THE COURT: I'm going to allow the clerk to answer
11 because she has the exhibits in front of her. We got through
12 1 and 2 without --

13 THE CLERK: One's the corporation annual report.

14 MR. KENNEDY: One. Yes, ma'am.

15 THE CLERK: And 2 is the order to renew authority in
16 Monongalia County.

17 MR. KENNEDY: Yes, ma'am.

18 THE COURT: All right. Anything else you'd like to add,
19 Mr. Kennedy?

20 MR. KENNEDY: No, your Honor, other than the fact I would
21 just like to state the modification of the order as directed
22 by the Court at the beginning of this hearing as well as the
23 information that's been provided to clarify the secretary of
24 state issues as well as the specific bond that was issued on

1 the 8th of November I would request the Court to find that
2 Mrs. Orem has financial wherewithal and is of good moral
3 character such that the petition to be authorized to practice
4 bonding in this judicial circuit should issue.

5 THE COURT: All right. Thank you. I appreciate that.

6 The Court has already said that it does not find any concerns
7 at all with regard to the financial ability of Mrs. Orem to be
8 able to stand behind the bonds that she writes as required by
9 code. The Court has heard your arguments Mr. Kennedy and has
10 considered much of what you had to say here today prior to
11 taking the bench. The Court does accept the documents and
12 accepts them into evidence 1 through 4 today and they do
13 demonstrate that the application to appoint or change officers
14 was filed with the secretary of state on November 1, 2018 and
15 that become the effective date by which Mrs. Orem was
16 authorized to transact all business by and on behalf of the
17 corporation Special Services Bureau Incorporated.

18 The Court further finds that November the 8th was the
19 pivotal date involving the Court's prior order and that the
20 Court had previously ordered John Orem not to engage in the
21 bonding business and Mr. Orem was present in court on the
22 dates that the Court ordered him not to engage in the bonding
23 business until we had clarified some issues at that point as
24 they related to Mr. Orem. Mr. Orem however continued to

1 engage in the bonding business by accompanying his Mrs. Orem
2 to Magistrate Shull's office on November 8 after she became
3 the president and he no longer was the president and he
4 instructed her on how to complete the paperwork and if the
5 Court recalls correctly from the last hearing some of the
6 handwritten information that was ultimately provided to
7 Magistrate Shull was completed by Mr. Orem.

8 The Court finds that even if Mrs. Orem, Sher Orem, did
9 not remember whether or not her husband had been instructed by
10 the Court or whether or not he had told his wife that the
11 Court had instructed him not engage in the bonding business
12 until further order of the Court she was acting as the
13 president of the corporation on November 8, 2018 and was at
14 that time charged with the duty and responsibility to know
15 what all persons in the corporation were allowed to do and not
16 to do. And the Court does not find that her prior testimony
17 was credible that she did not know what her husband was
18 allowed to do or not do given the fact that just seven days
19 earlier he had turned the entire business over to her. There
20 had to be conversation reasonably between the two persons who
21 are married to one another as to why that was occurring. And
22 so the Court finds that Mr. Orem contrary to the Court's order
23 was attempting to write or participate in the writing of a
24 bond on November 8, 2018 and that Mrs. Orem knew that that was

1 what was occurring and that it was in contravention of the
2 Court's prior order.

3 In looking at the Court's order that was entered December
4, 2018 it appears that the only pertinent matter that this
5 Court is no longer considering is whether or not Mrs. Orem
6 intentionally tried to conceal the identity of her husband
7 John Orem from Magistrate Shull's assistant on November 8,
8 2018. Unfortunately, all of the other information that the
9 Court relied upon in rendering its decision is still before
10 the Court and substantially unchanged. Therefore the Court
11 cannot find that Sher Orem is going to be of good moral
12 character as required by West Virginia Code 51-10-8 and
13 therefore stands by its original petition -- it's original
14 order in the totality of all the circumstances to deny the
15 renewal application.

16 Your objections are noted for the record and, Mr.
17 Kennedy, I'll ask you to prepare the order please.

18 MR. KENNEDY: Very good, your Honor.

19 THE COURT: We're off the record.

20 (Hearing concluded at 2:36 p.m.)

21

22

23

24

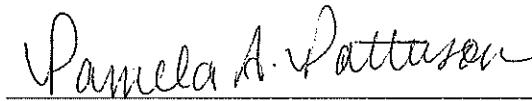
1 STATE OF WEST VIRGINIA

2 COUNTY OF BERKELEY, TO-WIT:

3 I, Pamela Patterson, an Official Reporter of the Circuit
4 Court of Berkeley County, West Virginia, do hereby certify
5 that the foregoing is a true and correct transcript of the
6 proceedings had and testimony taken in the action of 18-P-121,
7 Renewal of Bonding Authority on Friday the 22nd day of
8 February 2019.

9 I hereby certify that the transcript within meets the
10 requirement of the Code of the state of West Virginia, 51-7-4,
11 and all rules pertaining thereto as promulgated by the Supreme
12 Court of Appeals.

13 Given under my hand this 2nd day of March 2019.

17 
18 _____

19 Official Reporter, Circuit Court of
20 Berkeley County, West Virginia
21
22
23
24

Case No.: 18-M02F-00818
18-M02M-04597

C. CONSENT TO APPLY DEPOSIT:

By signing below, I acknowledge that bail I have posted or secured may be subject to forfeiture if the defendant willfully fails to appear.

I agree or do not agree that the funds I have deposited may be used to cover court costs, fees, and fines if the Court renders a judgment of guilt against the defendant or the payment of court costs, fees, and fines are otherwise lawfully required.

Other Depositor or Surety Information:

Regional Bonding
Depositor / Surety (Full Name)

SDI S Raleigh St
Address

Martinsburg WV 25401
City, State, & Zip Code

304-267-8100
Phone Number(s)

XXX-XX-
Social Security Number

11/8/2018 Shirleen
Date Other Depositor or Surety Signature(s), if any

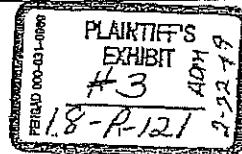
Other Depositor or Surety Signature(s), if any

D. ADMISSION TO BAIL

Accordingly, the Court hereby approves bond for the defendant and ORDERS the defendant's continued freedom or release from custody.

Acknowledged before me this 11/8/2018 9:15 PM
(Date and Time)

JR
Magistrate's Signature



Date

Defendant's Signature

5. Complete the Change of Officers or Other Persons in Authority:

Officer Type (check one for each new officer)	New Officer Name	New Officer Address
<input checked="" type="checkbox"/> President (Corp., Vol. Assn.) <input type="checkbox"/> Member/Manager (LLC) <input type="checkbox"/> General Partner (LP, LLP) <input type="checkbox"/> Trustee (Bus. Trust) <input type="checkbox"/> Other _____	John Orem	501 S. Raleigh Street Martinsburg, WV 25401
	Sher Orem	
	Remove (previous officer name, if any)	
<input checked="" type="checkbox"/> Vice President (Corp., Vol. Assn.) <input type="checkbox"/> Member/Manager (LLC) <input type="checkbox"/> General Partners (LP, LLP) <input type="checkbox"/> Trustee (Bus. Trust) <input type="checkbox"/> Other _____	John Orem	501 S. Raleigh Street Martinsburg, WV 25401
	Sher Orem	
	Remove (previous officer name, if any)	
<input checked="" type="checkbox"/> Secretary (Corp., Vol. Assn.) <input type="checkbox"/> Member/Manager (LLC) <input type="checkbox"/> Limited Partner (LP) <input type="checkbox"/> General Partner (LLP) <input type="checkbox"/> Trustee (Bus. Trust) <input type="checkbox"/> Other _____	John Orem	501 S. Raleigh Street Martinsburg, WV 25401
	Sher Orem	
	Remove (previous officer name, if any)	
<input checked="" type="checkbox"/> Treasurer (Corp., Vol. Assn.) <input type="checkbox"/> Member/Manager (LLC) <input type="checkbox"/> Limited Partner (LP) <input type="checkbox"/> General Partner (LLP) <input type="checkbox"/> Trustee (Bus. Trust) <input type="checkbox"/> Other _____	John Orem	501 S. Raleigh Street Martinsburg, WV 25401
	Sher Orem	
	Remove (previous officer name, if any)	
<input checked="" type="checkbox"/> Director (Corp., Vol. Assn.) <input type="checkbox"/> Member/Manager (LLC) <input type="checkbox"/> Limited Partner (LP) <input type="checkbox"/> General Partner <input type="checkbox"/> Trustee (Bus. Trust) <input type="checkbox"/> Other _____	John Orem	501 S. Raleigh Street Martinsburg, WV 25401
	Sher Orem	
	Remove (previous officer name, if any)	

6. Update/change E-mail Address (ex: *name@domain.com*): *john@johnorem.com*

7. Name and phone number of contact person. (This information is optional, however, if there is a problem with the filing, listing a contact person may avoid having to return or reject the document.)

J. Mark Sutton (304) 267-0904
Contact Name Phone Number

8. Signature Information (See below **Important Legal Notice Regarding Signature*).

Print Name of Signer: Sher Orem Title/Capacity: Director/Share Holder
Signature: X Sher Orem Date: 8/21/2017

**Important Legal Notice Regarding Signatures*

Corporations/Voluntary Associations/Business Trusts/Unincorporated Nonprofit Associations/Limited Partnerships - Per West Virginia Code §31B-1-129. Penalty for signing false document. Any person who signs a document he or she knows is false in any material respect and knows that the document is to be delivered to the Secretary of State for filing is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars or confined in the county or regional jail not more than one year, or both. Limited Liability Companies/Limited Liability Partnerships - Per West Virginia Code §31B-2-209. Liability for false statement in filed record. If a record authorized or required to be filed under this chapter contains a false statement, one who sustains loss by reliance on the statement may recover damages for the loss from a person who signed the record or caused another to sign it on the person's behalf and knew the statement to be false at the time the record was signed.

Important Note: This form is a public document. Please do NOT provide any personally identifiable information on this form such as social security number, bank account numbers, credit card numbers, tax identification or driver's license numbers.

APPLICATION TO APPOINT OR CHANGE
PROCESS, OFFICERS, AND/OR
ADDRESSES

Form AAO
Rev. 11/2017



West Virginia Secretary of State
Business & Licensing Division
Tel: (304)558-8000
Fax: (304)558-8381
Website: www.wv sos.gov

FILED

NOV 01 2018

IN THE OFFICE OF
SECRETARY OF STATE

FILE ONE ORIGINAL
(Two if you want a filed stamped
copy returned to you)
FEE: \$15.00

1. The company filing this change
is registered as a (check one):

Corporation Limited Partnership
 Limited Liability Company Voluntary Association
 Limited Liability Partnership Business Trust
 Insurance Company/Agency

2. The change is filed for:
(Note: Enter information as previously
filed. No change can be accepted
without this information.)

Company Name: Special Services Bureau Inc.

Principal Office Address as Registered:
501 S. Raleigh Street
Martinsburg, WV 25401

Home State: WV WV Formation Date: 1/21/2011

3. Change of Address:
(Note: Use appropriate lines for the
type of address to be changed):

Address Type New Address

a. Principal Office

b. Principal Mailing

c. Designated Office

4. Change of Agent for Service of Process (per §31D-5-502 of the West Virginia Code)

a. Current Agent Name

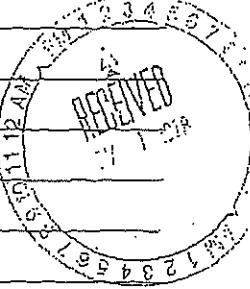
a. John Orem

b. New Agent Name and Address

b. Sher Orem

The agent named here has given consent
to appointment as agent to accept service
of process on behalf of this company.

New Agent Signature: X John Orem



5. Complete the Change of Officers or Other Persons in Authority:

Officer Type (check one for each new officer)	New Officer Name	New Officer Address
<input checked="" type="checkbox"/> President (Corp., Vol. Assn.) <input type="checkbox"/> Member/Manager (LLC) <input type="checkbox"/> General Partner (LP, LLP) <input type="checkbox"/> Trustee (Bus. Trust) <input type="checkbox"/> Other _____	Sher Orem John Orem <small>Remove (previous officer name, if any)</small>	501 S. Raleigh Street Martinsburg, WV 25401
<input checked="" type="checkbox"/> Vice President (Corp., Vol. Assn.) <input type="checkbox"/> Member/Manager (LLC) <input type="checkbox"/> General Partners (LP, LLP) <input type="checkbox"/> Trustee (Bus. Trust) <input type="checkbox"/> Other _____	Sher Orem John Orem <small>Remove (previous officer name, if any)</small>	501 S. Raleigh Street Martinsburg, WV 25401
<input checked="" type="checkbox"/> Secretary (Corp., Vol. Assn.) <input type="checkbox"/> Member/Manager (LLC) <input type="checkbox"/> Limited Partner (LP) <input type="checkbox"/> General Partner (LLP) <input type="checkbox"/> Trustee (Bus. Trust) <input type="checkbox"/> Other _____	Sher Orem John Orem <small>Remove (previous officer name, if any)</small>	501 S. Raleigh Street Martinsburg, WV 25401
<input checked="" type="checkbox"/> Treasurer (Corp., Vol. Assn.) <input type="checkbox"/> Member/Manager (LLC) <input type="checkbox"/> Limited Partner (LP) <input type="checkbox"/> General Partner (LLP) <input type="checkbox"/> Trustee (Bus. Trust) <input type="checkbox"/> Other _____	Sher Orem John Orem <small>Remove (previous officer name, if any)</small>	501 S. Raleigh Street Martinsburg, WV 25401
<input checked="" type="checkbox"/> Director (Corp., Vol. Assn.) <input type="checkbox"/> Member/Manager (LLC) <input type="checkbox"/> Limited Partner (LP) <input type="checkbox"/> General Partner <input type="checkbox"/> Trustee (Bus. Trust) <input type="checkbox"/> Other _____	Sher Orem <small>Remove (previous officer name, if any)</small>	501 S. Raleigh Street Martinsburg, WV 25401

6. Update/change E-mail Address (ex: name@domain.com): sherorem@gmail.com

7. Name and phone number of contact person. (This information is optional, however, if there is a problem with the filing, listing a contact person may avoid having to return or reject the document)

J. Mark Sutton 304-267-0904
 Contact Name _____ Phone Number _____

8. Signature Information (See below *Important Legal Notice Regarding Signature):

Print Name of Signer: John Orem Title/Capacity: Director/Share Holder
 Signature: X PC Date: 11/11/18

*Important Legal Notice Regarding Signature

Corporations/Voluntary Associations/Business Trusts/Unincorporated Nonprofit Associations/Limited Partnerships - Per West Virginia Code §31D-1-129, Penalty for signing false document. Any person who signs a document he or she knows is false in any material respect and knows that the document is to be delivered to the Secretary of State for filing is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars or confined in the county or regional jail not more than one year, or both. Limited Liability Companies/Limited Liability Partnerships - Per West Virginia Code §31B-2-202, Liability for false statement in filed record. If a record authorized or required to be filed under this chapter contains a false statement, one who suffers loss by reliance on the statement may recover damages for the loss from a person who signed the record or caused another to sign it on the person's behalf and knew the statement to be false at the time the record was signed.

Important Note: This form is a public document. Please do NOT provide any personal identifiable information on this form such as social security number, bank account numbers, credit card numbers, tax identification or driver's license numbers.



West Virginia Secretary of State
Business & Licensing Division
Tel: (304)558-8000
Fax: (304)558-8381
Website: www.wvssos.gov

Rev. 9/2018

Customer Order Request

SUBMIT THIS COMPLETED FORM WITH YOUR FILING.



READ CAREFULLY BEFORE SUBMITTING - Expedite service is NOT AVAILABLE for the following filings:

>> Tax Department filings including Sole Proprietorships, General Partnerships; and Associations
>> Dissolution or Withdrawal of Corporation, Voluntary Association or Business Trust

Order Processing Requested*:

* * * Expedite Processing Requires Additional Fees * * *

Standard Processing**
(Avg. processing turnaround
5-10 business days)

24-HOUR Expedite***
(additional \$25.00 fee included)

2-HOUR Expedite
(additional \$250.00 fee included)

1-HOUR Expedite
(additional \$500.00 fee included)

Email to: CorpFilings@irs.tds.gov

Emailed to: efilings@wvssos.gov

*"Processing" indicates the filing will be completed and registered in the Secretary of State registration database.

Standard Processing applications received by E-MAIL or FAX must include the e-Payment Authorization form with credit card information.

****NOTE:** Orders filed in person through any Secretary of State office location requesting the filing be processed will be assessed a 24-HOUR Expedite fee of \$25.00 per order.

Name of Entity: Special Services Bureau, Inc.

Return filing to: **Sutton & Janelle, PLLC, 125 E. King St., Martinsburg, WV 25401**
(Return Address)

Contact Name: J. Mark Sutton

Phone: +1 (304) 257-0909

Return Delivery Options: Email or Fax options do not receive a copy via mail; must be ordered separately.

<input checked="" type="checkbox"/> Email to: <u>jms@suttonandjanelle.com</u>	<input type="checkbox"/> Fax to: _____	
<input type="checkbox"/> Hold for Pick Up	<input type="checkbox"/> Mail to Return Address above	<input type="checkbox"/> FedEx: Acct # _____
<input type="checkbox"/> Other (explain below):		<input type="checkbox"/> UPS: Acct # _____

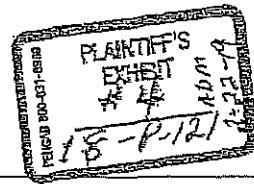
Order Description (include items being ordered and fee breakdown):

* PLEASE NOTE: Original paperwork is kept by this office. Include a copy of the original filing if you want a file stamped copy returned to you at no extra charge. Certified copy requests are an additional \$15 per certified copy being requested.

Total Amount:

Payment Method:

Check/Money Order Credit Card *(Must attach e-Payment Authorization request form including payment information.)*
 Cash *(Do Not mail cash)* Pre-paid Acct #: Attach signed pre-paid slip.



Special Services
Bureau, Inc.

P.O. Box 3777
Martinsburg, WV 25402

POWER OF ATTORNEY

VALID IF POSTED BY:
December 31, 2020



POWER AMOUNT \$ 51,000

POWER NO. S50 225

KNOW ALL MEN BY THESE PRESENTS that Special Services Bureau, Inc., a corporation duly organized and existing under the laws of the state of WV, has constituted and appointed, and does hereby constitute and appoint the named Executing Agent, its true and lawful Attorney-in-Fact, with full power and authority to sign the company's name and affix its corporate seal to, and deliver on its behalf, as may and all obligations as herein provided, and the execution of such obligations in pursuance of these presents shall be as binding upon the company as fully and to all intents and purposes as if done by the regularly elected officers of said company at its home office in their own proper persons; and the said company hereby ratifies and confirms all and whatsoever its said attorney-in-fact may lawfully do and perform in the premises by virtue of these presents.

The obligation of the company shall not exceed the sum of

FIFTY-ONE THOUSAND DOLLARS

Authority of such Attorney-in-Fact is limited to appearance bonds and cannot be construed to guarantee defendant's future lawful conduct, adherence to travel limitation, fines, restitution, payments or penalties, or any other condition imposed by a court not specifically related to court appearance. The Power of Attorney is for use with Bail Bonds only and is void if altered, erased, or used with other powers of this company. It is not valid if used in connection with Federal Immigration Bonds or Civil Bonds. A separate Power of Attorney must be attached to each bond executed. STACKING OF POWERS IS STRICTLY PROHIBITED! No more than one power from this Surety may be used to execute any one bond. Powers of Attorney must be returned to Attorney-in-Fact, but should remain a permanent part of the court records.

IF BOND FORGETS, such a copy of this Power of Attorney to the forfeiture notice and to the SPECIAL SERVICES BUREAU, INC., D.B.A. 45 BAIL BONDS - P.O. BOX 3777, MARTINSBURG, WV 25402

AND the Executing Agent named below at:

Reagan! Esq. D.W.O.

IN WITNESS WHEREOF, Special Services Bureau, Inc. has caused these presents to be signed by its duly authorized attorney-in-fact, proper for the purpose and its corporate seal to be hereunto affixed this _____ day of _____

Bond Amount \$ 51,000

Appearance Date 7/8/05 Time _____

Defendant *Reagan, L.T.M.* L.T.M. 0

D.O.B. *6/17/13* SS# *223217317*

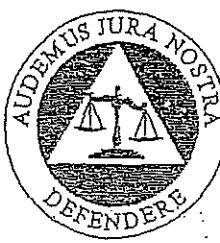
Court *Bethel* Ct. No. *15*

City *Bethel* State *WV*

Charge *Child Endangerment* Case No. *15*

Chrg. F. *15* Ct. No. *15*

Executing Agent *Reagan, L.T.M.*



[Signature]
John W. Oren, President

Print - Color Copy Copy - Office Copy Fax - Agent Copy



Special Services
Bureau, Inc.
P.O. Box 2777
Martinsburg, WV 25402

POWER OF ATTORNEY

VALID IF POSTED BY:
December 31, 2020

POWER AMOUNT \$

11,000

POWER NO. S10 NO 3801

KNOW ALL MEN BY THESE PRESENTS that Special Services Bureau, Inc., a corporation duly organized and existing under the laws of the state of WV, has constituted and appointed, and does hereby constitute and appoint the named Executing Agent its true and lawful Attorney-in-Fact, with full power and authority to sign the company's name and affix its corporate seal to, and deliver on its behalf, at any and all obligations as herein provided, and the execution of such obligations in pursuance of these presents shall be as binding upon the company as fully and to all intents and purposes as if done by the regularly elected officers of said company at its home office in their own proper persons; and the said company hereby ratifies and confirms all and whatsoever its said attorney-in-fact may lawfully do and perform in the premises by virtue of these presents.

The obligation of the company shall not exceed the sum of

ELEVEN THOUSAND DOLLARS

Authority of such Attorney-in-Fact is limited to appearance bonds and cannot be construed to guarantee defendant's future lawful conduct, adherence to travel limitation, fines, restitution, payments or penalties, or any other condition imposed by a court not specifically related to court appearance. The Power of Attorney is for use with Bail Bonds only and is valid if altered, erased, or used with other powers of this company. It is not valid if used in connection with Federal Immigration Bonds or Civil Bonds. A separate Power of Attorney must be attached to each bond executed. STACKING OF POWERS IS STRICTLY PROHIBITED! No more than one power from this Surety may be used to execute any one bond. Powers of Attorney must not be returned to Attorney-in-Fact, but should remain a permanent part of the court records.

IF BOND FORFEITS, attach a copy of this Power of Attorney to the forfeiture notice and mail to SPECIAL SERVICES BUREAU, INC., D.B.A. 4% BAIL BONDS - P.O. BOX 2777, MARTINSBURG, WV 25402

AND the Executing Agent named below:

IN WITNESS WHEREOF, Special Services Bureau, Inc. has caused these presents to be signed by its duly authorized attorney-in-fact, proper for the purpose and its corporate seal to be hereunto affixed this _____ day of _____

Bood Amount \$ _____

Appearance Date _____ Time _____

Defendant _____

D.O.B. _____ SS # _____

Court _____

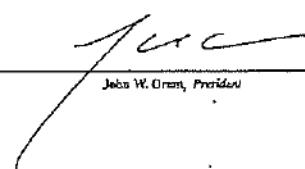
City _____ State _____

Charge _____

Charge _____ Case No. _____

Executing Agent _____




John W. Orman, President
WVA - Court Copy County - Office Copy PVA - Appeal Copy

STATE OF WEST VIRGINIA

At the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 23rd of July, 2020, the following order was made and entered **in vacation**:

In re: Special Services Bureau, Inc.
d/b/a Regional Bonding Co.,
Plaintiff Below, Petitioner

No. 19-0365

ORDER

The Court, having maturely considered the petition for rehearing filed by Christian J. Riddell, Riddell Law Group, counsel for the petitioner, Special Services Bureau, Inc. d/b/a Regional Bonding Co., is of opinion to and does hereby refuse said petition for rehearing.

A True Copy

Attest: /s/ Edythe Nash Gaiser

Clerk of Court



ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

RE: RESUMPTION OF OPERATIONS

WHEREAS, on March 22, 2020, in response to the COVID-19 crisis, the Chief Justice of the Supreme Court of Appeals of West Virginia entered an order declaring a judicial emergency, pursuant to Article 8, Section 3 of the Constitution of West Virginia, which grants the Supreme Court of Appeals of West Virginia constitutional supervisory power over the circuit courts, family courts, and magistrate courts in West Virginia;

WHEREAS, Article 3, Section 17 of the Constitution of West Virginia requires that the courts of this state shall be open, and every person, for any injury done to him, in his person, property or reputation, shall have remedy by due course of law; and justice shall be administered without sale, denial or delay;

WHEREAS, the Supreme Court of Appeals of West Virginia desires to balance public health with the constitutional mandate that our courts continue to function for our citizens,

WHEREAS, W. Va. Code § 2-2-2 authorizes the Chief Justice of the Supreme Court of Appeals of West Virginia to declare an emergency in situations where conditions prevent the general transactions of court business;

WHEREAS, the Supreme Court of Appeals of West Virginia has utilized heightened mitigation efforts to protect the health and safety of the public during the COVID-19 crisis;

WHEREAS, in consultation with local and state public health officials, the Supreme Court of Appeals of West Virginia has evaluated the continued need for a judicial emergency in light of ongoing COVID-19 mitigation efforts, and determined that certain court business may resume upon expiration of the judicial emergency in accordance with the **COVID-19 RESUMPTION OF OPERATIONS PROTOCOLS** ("Protocols") issued by the Supreme Court of Appeals of West Virginia on May 6, 2020, attached hereto and incorporated by reference, as further directed herein;

THEREFORE, it is ORDERED that the judicial emergency, the April 22, 2020 Second Amended Order, and the April 24, 2020 Temporary Order Regarding Civil Litigation and Rules of Civil Procedure in Circuit Court shall continue in force and effect through May 15, 2020.

It is further ORDERED that, upon the May 15, 2020 expirations of the judicial emergency, the April 22, 2020 Second Amended Order, and the April 24, 2020 Temporary Order Regarding Civil Litigation and Rules of Civil Procedure in Circuit Court, all courts, judicial officers and court personnel shall comply and adhere to the applicable guidance and directives set forth in the Protocols. Remote hearings and proceedings are still permitted and encouraged, if appropriate.

It is further ORDERED that, upon the expiration of the judicial emergency, and subject to the Protocols:

- In-person hearings or proceedings may commence on or after May 18, 2020;
- Grand jury proceedings may commence on or after June 15, 2020;
- Jury trials may commence on or after June 29, 2020.

It is further ORDERED that, pursuant to W. Va. Code § 2-2-2(a), all proceedings and court deadlines stayed due to the COVID-19 crisis, except the emergency proceedings authorized in the April 22, 2020 Second Amended Order, directed to take place or any act required to be done on any day falling within the period of judicial emergency, remain stayed until May 15, 2020. Upon the May 15, 2020 expiration of the judicial emergency:

- Statutes of limitations and statutes of repose that would otherwise expire during the period of judicial emergency between March 23, 2020, and May 15, 2020, shall expire on May 18, 2020;
- Deadlines created by, or in response to, the Court's April 24, 2020 Temporary Order Regarding Civil Litigation and Rules of Civil Procedure in Circuit Court are not modified by this Order;
- Deadlines set forth in court rules, statutes (excluding statutes of limitation and repose), ordinances, administrative rules, scheduling orders, or otherwise that expired between March 23, 2020, and April 17, 2020, are hereby extended to May 29, 2020, unless otherwise ordered by the presiding judicial officer;
- Deadlines set forth in court rules, statutes (excluding statutes of limitation and repose), ordinances, administrative rules, scheduling orders, or otherwise that expired between April 18, 2020 and May 15, 2020, are hereby extended to June 12, 2020, unless otherwise ordered by the presiding judicial officer;
- Deadlines, statutes of limitations, and statutes of repose that do not expire during the period of judicial emergency between March 23, 2020, and May 15, 2020, are not extended or tolled by this or prior orders;
- All non-emergency, in-person proceedings previously scheduled between March 23, 2020, and May 15, 2020, are continued until on or after May 18, 2020 as shall be directed by the presiding judicial officer.

Consistent with the directives and guidance set forth in the Protocols, all authorized proceedings should utilize available technology to limit person-to-person contact whenever possible, unless otherwise directed.

It is further ORDERED that, to the extent they do not impermissibly infringe upon the constitutional rights of a party or litigant, any West Virginia state or local rules, including but not limited to criminal rules, civil rules, or administrative rules, that limit or preclude a judicial officer or court clerk's ability to utilize remote, telephonic or video technology to limit in-person contact, are suspended. Such suspension shall survive the expiration of the judicial emergency, and will remain in effect until otherwise ordered.

It is further ORDERED that it is the responsibility of each Chief Circuit Judge and each Chief Family Court Judge to notify the employees of all offices under their supervision of the content of this Order.

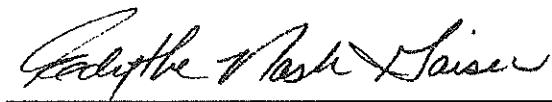
It is further ORDERED that this ORDER supersedes any local administrative order issued by a judicial official to the extent such order is inconsistent herewith.

The Clerk of Court is hereby directed to distribute copies of this Administrative Order by appropriate means to all circuit judges, family court judges, and magistrates.

ENTERED: May 6, 2020



Tim Armstead, Chief Justice



Edythe Nash Gaiser, Clerk of Court

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

SPECIAL SERVICES BUREAU, INC.,
d/b/a A REGIONAL BONDING CO.,
PLAINTIFF BELOW,

PETITIONER,

BRIEF OF PETITIONER, SPECIAL SERVICES BUREAU, INC.
d/b/a A REGIONAL BONDING CO.

Gregory E. Kennedy, Esquire (WVSB #8730)
Landon S. Moyer, Esquire (WVSB #12511)
Franklin & Prokopik
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Counsel for Petitioner

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ASSIGNMENTS OF ERROR

- I. THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY FAILING TO GRANT SPECIAL SERVICES BUREAU, INC.'S MOTION FOR RELIEF FROM JUDGMENT IN ITS ORDER DENYING SPECIAL SERVICES BUREAU, INC.'S MOTION FOR RELIEF FROM JUDGMENT DATED MARCH 15, 2019.
- II. THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY FINDING MRS. SHER OREM WAS NOT OF GOOD MORAL CHARACTER IN REGARD TO HER REQUESTED AUTHORITY TO ENGAGE IN THE BONDING BUSINESS IN THE 23RD JUDICIAL CIRCUIT ON BEHALF OF SPECIAL SERVICES BUREAU, INC.
- III. THE TRIAL COURT COMMITTED REVERSIBLE ERROR IN FINDING THAT MR. JOHN OREM VIOLATED AN ORDER OF THE TRIAL COURT BY ENGAGING IN THE BONDING BUSINESS WHEN IT WAS SPECIFICALLY ORDERED THAT HE NOT DO SO.
- IV. THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY FAILING TO TAKE INTO CONSIDERATION ANOTHER TRIAL COURT'S DECISION IN THE STATE OF WEST VIRGINIA IN FINDING THAT MRS. SHER OREM IS OF GOOD MORAL CHARACTER AND GRANTED SPECIAL SERVICES BUREAU, INC. THE AUTHORITY TO ENGAGE IN THE BONDING BUSINESS IN THE 17TH JUDICIAL CIRCUIT OF WEST VIRGINIA.
- V. THE TRIAL COURT'S ORDER DENYING SPECIAL SERVICES BUREAU, INC.'S MOTION FOR RELIEF FROM JUDGMENT CONTAINS LANGUAGE THAT WAS NOT CONTAINED IN THE PETITIONER'S PROPOSED ORDER DENYING SPECIAL SERVICES BUREAU, INC.'S MOTION FOR RELIEF FROM JUDGMENT.
- VI. THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY ISSUING ITS *SUA SPONTE* ORDER DATED OCTOBER 3, 2018.

STATEMENT OF THE CASE

Special Services Bureau Inc., d/b/a A Regional Bonding Co. ("Petitioner") is a West Virginia corporation duly authorized to do business in the State of West Virginia, and is engaged in the bail bonding business in numerous circuits throughout the State of West Virginia, as well as the State of Maryland. Petitioner filed a petition to renew its authority in the bail bonding business in the 23rd Judicial Circuit, which includes Berkeley, Jefferson, and Morgan Counties, on or about March 23, 2018 ("Petition"). (A.R. 11-17.) Petitioner is currently engaged in the bonding business, and is properly authorized to do so in the 16th, 17th, 18th, 21st, and 22nd Judicial Circuits of West

Virginia. When Petitioner filed its Petition for renewal of its authority to engage in the bonding business in the 23rd Judicial Circuit of West Virginia, it named Mr. John Orem (“Mr. Orem”) as its authorized agent, as well as Mrs. Sher Orem (“Mrs. Orem”), and Mr. Tyler Lee Cates (“Mr. Cates”). (A.R. 11-17.) While the Petition was under review by the trial court, Petitioner filed appropriate documents with the West Virginia Secretary of State to name Mrs. Orem as Petitioner’s President, Vice President, Secretary, Treasurer, and Director. In effect, Mr. Orem was removed from all positions that he previously held with Petitioner. As a result of these filings with the West Virginia Secretary of State, Petitioner filed its *Amended Petition to Renew Authority to Engage in the Bonding Business in the 23rd Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia* to properly reflect Mrs. Orem as the proper authorized principal and agent for Petitioner to conduct bonding actions in the 23rd Judicial Circuit. (A.R. 94-100.)

The trial court first entered its *Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia* on December 4, 2018, wherein the trial court found Mrs. Orem not to be of good moral character because her testimony at a prior evidentiary hearing lacked credibility in the following areas: (1) Ms. Orem's lack of understanding that her husband, Mr. Orem, was not allowed to participate in writing bonds until a final hearing was conducted and unless the Petition was granted; (2) Mrs. Orem's statement that she was not working in concert with Mr. Orem to conceal his identity from Magistrate Shull's assistant on November 8, 2018; and (3) Mrs. Orem's intention and ability to operate Petitioner, as President, without allowing Mr. Orem to participate in writing bonds. (A.R. 132-37.) Thereafter, Petitioner filed its *Motion for Relief from Judgment* due to material misrepresentations and falsehoods contained in the testimony of Magistrate Shull's assistant, Ms. Kimberly Clark (“Ms. Clark”), which the trial court clearly relied

upon in finding Mrs. Orem to not be of good moral character. (A.R. 138-73.) Subsequently, the trial court held a hearing on Petitioner's *Motion for Relief from Judgment* on February 22, 2019, and at the start of the hearing without argument of counsel, the trial court amended its previous *Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia* (A.R. 132-37.), and said amendments were reflected in the trial court's *Order Denying Special Services Bureau, Inc.'s Motion for Relief From Judgment*. Specifically, the trial court ordered that the following amendments be made to its Final Order entered on December 4, 2018: (1) on page 4, the Court strikes the portion that states "the Court further finds that the Orems intentionally concealed John Orem from the security camera so that he could accompany his wife into Magistrate Shull's office for the sole purpose in engaging in the bonding business by instructing his wife on how to write the bond; and (2) on the first full paragraph, subsection 2 on page 5, the Court strikes the portion that reads "her statement that she was not working in concert with Mr. Orem to conceal his identity from Magistrate Shull's assistant on November 8, 2018." (A.R. 248-49.) However, despite those *sua sponte* amendments that were made as a result of video evidence that established that the testimony of Ms. Clark was unreliable and lacked credibility, the trial court still found Mrs. Orem to not be of good moral character as required by West Virginia Code § 51-10-8. (A.R. 251.) Therefore, the trial court affirmed its *Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia*, as amended, in the totality of all circumstances and further denied Petitioner's *Motion for Relief from Judgment*. (A.R. 210-12.)

Based on the applicable case law and facts, as detailed herein, the trial court committed reversible error in its *Order Denying Special Services Bureau, Inc.'s Motion for Relief From*

Judgment and in its Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia, which was amended during the hearing on February 22, 2019 and said amendments reflected in the Order Denying Special Services Bureau, Inc.'s Motion for Relief From Judgment, and requires reversal of such by this Court.

SUMMARY OF ARGUMENT

Petitioner posits to this Honorable Court that the trial court committed reversible errors in its *Order Denying Special Services Bureau, Inc.'s Motion for Relief From Judgment* and in its *Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia*, which was amended during the hearing on February 22, 2019 and said amendments reflected in the *Order Denying Special Services Bureau, Inc.'s Motion for Relief From Judgment*, which now requires this Court to reverse the decisions of the trial court and remand the case to the trial court with proper instruction.

First, the trial court committed reversible error by failing to grant Petitioner's *Motion for Relief from Judgment* in its *Order Denying Special Services' Motion for Relief from Judgment*. The trial court's order dated December 4, 2018, was heavily based on the testimony of Kimberly Clark, which testimony was later revealed to be in direct contravention to the surveillance video footage of Magistrate Shull's office. (A.R. 132-37.) Thus, the overwhelming majority of the trial court's reliance in finding Mrs. Orem to be not of good moral character was later disregarded by the trial court in its *sua sponte* amendments to its prior *Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia*. (A.R. 132-37.) Despite these amendments, the trial court still refused to grant the Motion for Relief from Judgment despite the evidence clearly

showing that Petitioner was entitled to relief from the Court's final order entered on December 4, 2018. *See Law v. Monongahela Power Co.*, 210 W. Va. 549, 555-56, 558 S.E.2d 349, 355 (2001); *Phillips v. Stear*, 236 W. Va. 702, 711, 783 S.E.2d 567, 576 (2016).

Second, the trial court committed reversible error by finding Mrs. Orem was not of good moral character in regard to Petitioner's requested authority to engage in the bonding business in the 23rd Judicial Circuit of West Virginia. West Virginia Code § 51-10-8 states that a court is to take "into consideration both the financial responsibility and the moral qualities of the person so applying, and no person may be permitted to engage, either as principal or agent, in the business of becoming surety upon bonds for compensation in criminal cases, who has ever been convicted of any offense involving moral turpitude, or who is not known to be a person of good moral character." To that end, the trial court found that Mrs. Orem has the financial responsibility required under the statute, and the trial court further found that Mrs. Orem has not been convicted of any criminal offense and that she passed a drug screen that was ordered by the trial court.¹ (A.R. 186.) Instead, the trial court relied on irrelevant information and evidence that did not comport with the plain and unambiguous requirements enumerated in West Virginia Code § 51-10-8 to conclude that Mrs. Orem was not of good moral character. Thus, the trial court committed reversible error in denying Petitioner's Amended Petition.

Third, the trial court committed reversible error in finding that Mr. Orem violated an order of the trial court by engaging in the bonding business when it was ordered that he not do so. Specifically, the trial court found that Mr. Orem engaged in the bonding business on November 8, 2018, when he accompanied his wife and President of Petitioner, Mrs. Orem, to Magistrate Shull's

¹ This information was contained in the State of West Virginia 23rd Judicial Circuit Probation Department Investigation Report on Petition to Engage in Bond Business and Motion for Relief from Judgment, as prepared by Ms. DeLaine Buckley and filed by her on January 20, 2019 ("Probation Report"). (A.R. 175-80.)

office in the Berkeley County Judicial Complex to answer any questions that she may have in writing and issuing a bond and also by providing a power of attorney issued and signed by the executing agent for Petitioner, Mrs. Orem. The evidence before the trial court clearly established that Mr. Orem did not write any bond on behalf of Petitioner after being ordered by the trial court to refrain from such; nor did he actively engage in the bonding business after such date. As such, the trial court committed reversible error by finding that Mr. Orem engaged in the bonding business on November 8, 2018.

Fourth, the trial court committed reversible error by failing to take into consideration another trial court's decision in the State of West Virginia, which found that Mrs. Orem is of good moral character and thereby granted Petitioner the authority to engage in the bonding business in the 17th Judicial Circuit of West Virginia. Specifically, the Honorable Judge Tucker of the 17th Judicial Circuit granted Petitioner's Petition for Authority to Engage in the Bonding Business in the 17th Circuit, and in doing so, found Mrs. Orem to be of good moral character. The trial court ruled that it was of no relevance to deciding the issue of the current case. Consequently, this case requires review by this Court because this case involves inconsistencies and conflicts among the decisions of lower tribunals and further requires reversal by this Court because of the trial court's complete disregard of relevant information concerning the issue of Mrs. Orem's good moral character. *See* W. Va. Code Section 57-1-5; *see* W. Va. R. App. P. 20.

Fifth, the trial court's *Order Denying Special Services Bureau, Inc.'s Motion for Relief from Judgment* contains language that was not contained in Petitioner's proposed *Order Denying Special Services Bureau, Inc.'s Motion for Relief from Judgment*. (A.R. 242-52.) At the conclusion of the February 22, 2019 Hearing, the trial court directed counsel for Petitioner to prepare a proposed order. Counsel for Petitioner obtained the transcript from said hearing and tendered the

proposed order to the trial court as requested. Next, the trial court unilaterally changed the contents of the proposed order, and the trial court left the electronic signatures of the counsels for Petitioner intact as if said counsels approved the language and rulings contained in the trial court's modified *Order Denying Special Services' Motion for Relief from Judgment* (A.R. 249-54.), which they did not. Said errors constitute reversible error and requires that this case be remanded to the trial court with proper instructions to allow Petitioner to file written objections to said order. *See* W. Va. Trial Ct. R. 24.01.

Sixth, the trial court committed reversible error by issuing its *sua sponte* Order dated October 3, 2018. (A.R. 48-50.) Specifically, the trial court ruled that a final order addressing the merits of the Petition for Renewal would not be ruled upon until Petitioner provided a urine sample. Additionally, the trial court vacated its prior *Order Extending Time* dated April 18, 2018 (A.R.48-50.), which authorized the Petitioner to engage in the bonding business in the 23rd Judicial Circuit of West Virginia as long as necessary for the trial court to make a ruling on the Petition for Renewal. W. Va. Code § 51-10-8; *State ex rel. Weaver v. Dostert*, 171 W. Va. 461, 300 S.E.2d 102 (1983); Supreme Court of Appeals of West Virginia Order Declining to Issue Rules Governing Statewide Licenses to Engage in the Business of Issuing Surety Bonds in Criminal Cases, dated November 25, 2009.

Due to the aforementioned errors, Petitioner respectfully requests that this Court reverse the decisions of the trial court in its *Order Denying Special Services Bureau, Inc.'s Motion for Relief From Judgment* (A.R. 249-254.) and in its *Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia* (A.R. 132-137.), which was amended during the hearing on February 22, 2019 and said amendments reflected in the *Order Denying Special*

Services Bureau, Inc.'s Motion for Relief From Judgment (A.R. 249-254.), and remand this proceeding to the trial court with instructions to grant said Amended Petition.

STATEMENT REGARDING ORAL ARGUMENT AND DECISION

Petitioner requests oral argument pursuant to Rules 19 and 20 of the West Virginia Rules of Appellate Procedure.

ARGUMENT

Petitioner seeks to have the trial court's decision denying its Motion for Relief from Judgment and the Court's Final Order that was amended during the February 22, 2019 hearing on Petitioner's Motion for Relief from Judgment, which amendments were reflected in the Court's *Order Denying Special Services Bureau, Inc.'s Motion for Relief from Judgment*, reversed and remanded to the trial court with proper instruction. (A.R. 248-52.) The standard of review for a motion brought under Rule 60(b) of the West Virginia Rules of Civil Procedure is abuse of discretion. *Law*, 210 W. Va. at 555, 558 S.E.2d at 355. "A court, in the exercise of discretion given it by the remedial provisions of Rule 60(b), W.Va.R.C.P., should recognize that the rule is to be liberally construed for the purpose of accomplishing justice and that it was designed to facilitate the desirable legal objective that cases are to be decided on the merits." *Toler v. Shelton*, 157 W. Va. 778, 778, 204 S.E.2d 85, 86 (1974). Moreover, a challenge of a trial court's final order disposing of a case is reviewed under an abuse of discretion standard; challenges to the findings of fact are reviewed under an abuse of discretion standard, and challenges to conclusions of law are reviewed *de novo*. Syl. pt. 4, *Burgess v. Porterfield*, 196 W. Va. 178, 179, 469 S.E.2d 114, 115 (1996).

In applying the above standards of review to the instant case, Petitioner asserts six (6) reversible errors committed by the trial court relative to *Special Services Bureau, Inc. d/b/a A Regional Bonding Co.'s Motion for Relief from Judgment*, and *Final Order Denying Amended*

Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia. First, Petitioner asserts that the trial court committed reversible by failing to grant Petitioner's Motion for Relief from Judgment in its *Order Denying Special Services' Motion for Relief From Judgment* dated March 15, 2019. Second, the trial court committed reversible error by finding Mrs. Sher Orem was not of good moral character in regard to her requested authority to engage in the bonding business in the 23rd judicial circuit. Third, the trial court committed reversible error in finding that Mr. John Orem violated an order of the trial court by engaging in the bonding business when it was specifically ordered that he not do so. Fourth, the trial court committed reversible error by failing to take into consideration another trial court's decision in the State of West Virginia in finding that Mrs. Sher Orem is of good moral character and granted special services the authority to engage in the bonding business in the 17th Judicial Circuit of West Virginia. Fifth, the trial court's *Order Denying Petitioner's Motion for Relief from Judgment* contains rulings that were not announced by the trial court during the hearing on February 22, 2019. Sixth, the trial court committed reversible error by issuing its *sua sponte* order dated October 3, 2018.

Based on the arguments set forth hereinbelow, this Court must reverse the decision of the trial court and remand the case to the trial court with specific instruction to grant Petitioner's Petition to engage in the bonding business in the 23rd Judicial Circuit of West Virginia.

I. THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY FAILING TO GRANT SPECIAL SERVICES BUREAU, INC.'S MOTION FOR RELIEF FROM JUDGMENT IN ITS ORDER DENYING SPECIAL SERVICES BUREAU, INC.'S MOTION FOR RELIEF FROM JUDGMENT DATED MARCH 15, 2019.

The trial court committed reversible error by failing to grant Petitioner's *Motion for Relief from Judgment* dated March 15, 2019 because the trial court abused its discretion when making certain findings that were clearly erroneous and against the complete weight of the evidence. Rule

60(b) of the West Virginia Rules of Civil Procedure states that a final judgment may be set aside should a party locate newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b). Rule 60(b) of the West Virginia Rules of Civil Procedure sets forth numerous grounds pursuant to which a court may vacate a prior judgment including discovery of new evidence, fraud or misconduct of the adverse party, and that the judgment is void. Specifically, Rule 60(b) states, in pertinent part:

(b) Mistakes; Inadvertence; Excusable Neglect; Unavoidable Cause; Newly Discovered Evidence; Fraud, etc. On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order, or proceeding for the following reasons: (1) Mistake, inadvertence, surprise, excusable neglect, or unavoidable cause; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order, or proceeding was entered or taken.

W. Va. R. Civ. P. 60(b). A motion made pursuant to Rule 60(b) of the West Virginia Rules of Civil Procedure is within the sound discretion of the circuit court. *See Law*, 210 W. Va. at 555-56, 558 S.E.2d at 355. “Any motion under Rule 60(b) should be cautiously construed ‘to prevent the judgment from becoming a vehicle of injustice.’” *Phillips*, 236 W. Va. at 711, 783 S.E.2d at 576 (internal citations omitted). “Rule 60(b)(2) requires proof that the new evidence ‘is material and controlling and clearly would have produced a different result if present before the original judgment.’” *Id.* at 714, 579, n. 34. (quoting *Goldstein v. MCI WorldCom*, 340 F.3d 238, 257 (5th Cir.2003)).

Here, the trial court's order dated December 4, 2018, was heavily based on the testimony of Kimberly Clark (“Ms. Clark”), which testimony was later revealed to be directly in

contradiction to the surveillance video footage of Magistrate Shull's office. Specifically, Ms. Clark testified at the hearing on November 28, 2018, that on November 8, 2018, Ms. Orem came to Magistrate Shull's office for the purpose of posting a bond. (A.R. 112.) Ms. Clark stated that individuals have to use a "buzzer" in order to get access to the magistrate's office, and Ms. Clark has monitors directly in front of her desk to see who is attempting to be buzzed in. (A.R. 113.) On November 8, 2018, Ms. Clark testified that Mrs. Orem used the buzzer, and when she looked at the monitor, Ms. Clark only saw Mrs. Orem. (A.R. 113.) However, when Ms. Clark opened the door, Mr. Orem entered the magistrate's office behind Mrs. Orem. (A.R. 113.) Ms. Clark also testified that this did surprise her that Mr. Orem was present. (A.R. 113.) Ms. Clark further testified that she believed that it appeared that Mr. and Mrs. Orem attempted to conceal Mr. Orem's presence from Ms. Clark until he was in the office (A.R. 116.) Due in large part to Ms. Clark's testimony, the trial court denied the Petitioner's *Amended Petition to Renew Authority to Engage in the Bonding Business in the 23rd Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia*. In fact, the trial court went to great lengths in interpreting Ms. Clark's testimony and her body language while she was testifying at the November 28, 2018 hearing. (A.R. 134-36.) Specifically the Court stated in its *Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the 23rd Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia* that "[t]he Court Finds that the Orems intentionally concealed John Orem from the court security camera so that he could accompany his wife into Magistrate Shull's office for the sole purpose of engaging in the bonding business by instructing his wife on how to write the bond, and that said actions are also not of good moral character (A.R. 135.) Additionally, the Court found that based on the totality of the circumstances, it could not find that Mrs. Orem is far removed from Mr. Orem so as to not do what Mr. Orem directs her to do, which was based, in part

on the alleged concealment of Mr. Orem at Magistrate Shull's office on November 8, 2018. (A.R. 135.).

After Petitioner brought to the attention of the trial court the discrepancies and inconsistencies with the testimony of Ms. Clark by properly securing video footage from Magistrate Shull's office, and its *Special Services Bureau, Inc. d/b/a A Regional Bonding Co.*'s *Motion for Relief from Judgment*, the trial court amended its *Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia*, which was entered on December 4, 2018. (A.R. 248-49.). Specifically, the trial court made the following amendments to the aforementioned order: on page 4 of the order, the trial court struck the portion that states "the Court further finds that the Orems intentionally concealed John Orem from the security camera so that he could accompany his wife into Magistrate Shull's office for the sole purpose of engaging in the bonding business by instructing his wife on how to write the bond; and the trial court struck the portion in the first full paragraph, subsection 2 on page 5 that reads "her statement that she was not working in concert with Mr. Orem to conceal his identity from Magistrate Shull's assistant on November 8, 2018." (A.R. 248-49.) Despite these amendments to the *Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia*, the trial court denied *Special Services Bureau, Inc. d/b/a A Regional Bonding Co.*'s *Motion for Relief from Judgment*. Such was in clear error since the trial court gave such great weight to Ms. Clark's erroneous testimony.

The only remaining "facts" that the trial court specifically relied upon in denying Petitioner's *Motion for Relief from Judgment* were clearly erroneous, much like the testimony that

the trial court previously relied upon in denying Petitioner's *Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia*. The ultimate finding by the trial court was that Mrs. Orem was not of good moral character as required by West Virginia Code § 51-10-8. (A.R. 251.) This finding was merely based on the trial court's finding that Mr. Orem attempted to engage in the bonding business on November 8, 2018, when he simply accompanied his wife, Mrs. Orem, to Magistrate's Schull's office for the purpose of Mrs. Orem writing and issuing a bond on behalf of Petitioner and that Mrs. Orem, as president of Petitioner, knew or should have known that Mr. Orem was ordered to not engage in the bonding business beginning on November 1, 2018. (A.R. 250.) However, the trial court could not point to any fact whatsoever that Mr. Orem actually took affirmative steps in his personal capacity that day to write and issue the bond. Based on the trial court's *Order Denying Special Services Bureau, Inc.'s Motion for Relief from Judgment*, the trial court found that by Mr. Orem merely being "present in court" on November 8, 2018, gave rise to a finding that he engaged in the bonding business. (A.R. 249-50.) The trial court's finding in this regard is clearly erroneous and was an abuse of discretion because the West Virginia legislature has mandated that courthouses in the State of West Virginia are to be open to the public. *See* W. Va. Code § 7-3-2 (1989) ("That the courthouse, including any annex or other facility housing the courts and offices herein set out (excepting all facilities that are on a twenty-four-hour basis), shall be open to the public Monday through Friday during the hours prescribed by the county commission by an order duly recorded in the order book of the commission."). In applying the unambiguous language from the aforementioned statute, Mr. Orem had every right as a member of the public to be present in the courthouse on November 8, 2018. Thus, the trial court abused its

discretion in using this fact as a proper basis to justify denying Petitioner's Amended Petition and its Motion for Relief from judgment.

Additionally, the trial court's finding that Mrs. Orem was not of good moral character was an abuse of the trial court's discretion and was also clearly erroneous because the trial court's finding on this issue was based in large part of Mr. Orem's presence in the courthouse on November 8, 2018. (A.R. 249-50.) As discussed above, Mr. Orem had every right as a member of the public to be at the courthouse on November 8, 2018. The fact that Mr. Orem was present with his wife, Mrs. Orem, while she was attempting to write and issue a bond in no way creates a sinister motive on the part of the Orems, or Petitioner for that matter, in attempting to evade and disobey an order of the trial court. As the trial court specifically noted, Petitioner filed appropriate documents with the West Virginia Secretary of State to change its corporate officers: namely, denoting Mrs. Orem as President, Vice President, Secretary, and Treasurer. (A.R. 227-28; 240-50.) This change was done to effectively remove Mr. Orem from any ability to engage in the bonding business on behalf of Petitioner. The fact that the trial court interpreted this lawful action of a corporation as a sinister act was clearly erroneous as the trial court had no basis to rely on in support of this theory. The trial court merely made a finding on this issue by taking allegations that it conjured up and that were completely outside of the record of this case. Specifically, the trial court stated that "[f]here had to be conversation reasonably between the two persons who are married to one another as to why [the change in the officers for Petitioner] was occurring." (A.R. 211.) The trial court had absolutely zero (0) evidence before it that any conversation between Mr. Orem and Mrs. Orem took place concerning the trial court's prior order prohibiting Mr. Orem from engaging in the bonding business as the reason for the change in corporate officers of Petitioner. Rather, the only evidence concerning the change in corporate officers was from Mrs. Orem, who

testified that her only recollection was only that Petitioner was in the process of trying to renew its authority to engage in the bonding business in the 23rd Judicial Circuit of West Virginia but not anything to do with Mr. Orem's ability to engage in the bonding business. (A.R. 108.) Thus, the trial court completely abused its discretion in this regard, and, as such, the trial court's ruling on the Amended Petition and the Motion for Relief from Judgment must be reversed and remanded to the trial court with instructions to grant the Amended Petition.

Thus, the overwhelming majority of the trial court's reliance in finding Mrs. Sher Orem to be not of good moral character was later disregarded by the trial court. The remaining basis for the trial court's finding that Mrs. Orem was not of good moral character was an abuse of the trial court's discretion because the trial court interpreted lawful acts of Mr. Orem, Mrs. Orem, and Petitioner as sinister in their motives. Therefore, Petitioner is entitled to relief from the trial court's final order entered on December 4, 2018, which was amended during the February 22, 2019 hearing and said amendments being reflected in the trial court's *Order Denying Petitioner's Motion for Relief from Judgment*. (A.R. 248-52).

II. THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY FINDING MRS. SHER OREM WAS NOT OF GOOD MORAL CHARACTER IN REGARD TO PETITIONER'S REQUESTED AUTHORITY TO ENGAGE IN THE BONDING BUSINESS IN THE 23RD JUDICIAL CIRCUIT ON BEHALF OF SPECIAL SERVICES BUREAU, INC.

The trial court committed reversible error by finding that Mrs. Orem was not of good moral character in regard to Petitioner's requested authority to engage in the bonding business in the 23rd Judicial Circuit for the State of West Virginia because the trial court abused its discretion in making this finding. As such the trial court's *Order Denying Petitioner's Motion for Relief from Judgment and its Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia*, which was amended at the hearing on February 22, 2019 and amendments reflected in

the trial court's *Order Denying Petitioner's Motion for Relief from Judgment*, are clearly erroneous and the trial court abused its discretion in such findings contained in the aforementioned orders.

West Virginia Code § 51-10-8 states that a court is to take "into consideration both the financial responsibility and the moral qualities of the person so applying, and no person may be permitted to engage, either as principal or agent, in the business of becoming surety upon bonds for compensation in criminal cases, who has ever been convicted of any offense involving moral turpitude, or who is not known to be a person of good moral character."

At the outset, it is important to note that the trial court found Mrs. Orem to have the financial responsibility required under the statute, and it was further found that Mrs. Orem has not been convicted of any criminal offense and she passed a drug screen that was ordered by the trial court, which was reflected in the Probation Report dated January 30, 2019, and announced by the Court during the February 22, 2019, Hearing. (A.R. 174-80; 186-87.) Instead, the trial court relied on irrelevant information and evidence that do not concern the express requirements in the West Virginia Code § 51-10-8 to conclude that Mrs. Orem was not of good moral character. The irrelevant information relied upon by the trial court is discussed in Section I, *infra*.

Moreover, the trial court exceeded its authority in finding that Ms. Orem was not of good moral character. Specifically, the West Virginia legislature has required that trial courts of record take into consideration "both the financial responsibility and the moral qualities of the person so applying, and no person shall be permitted to engage, either as principal or agent, in the business of becoming surety upon bonds for compensation in criminal cases, who has ever been convicted of any offense involving moral turpitude, or who is not known to be a person of good moral character." W. Va. Code § 51-10-8. This unambiguous language provides clear instructions to trial courts that they should take into account "both the financial responsibility and the moral

qualities of the person so applying," and that no person can engage in the business if they have "ever been convicted of any offense involving moral turpitude, or who is not known to be a person of good moral character." *Id.* This Court has further reviewed West Virginia Code §51-10-8 in the context of House Bill 4148, which passed on March 13, 2004, and amended West Virginia Code §51-10-8, relating to the qualifications of bondsmen, which directed the Supreme Court of Appeals of West Virginia to promulgate rules to govern the authority of individuals seeking to engage in the bonding business in the State of West Virginia. This Court declined to promulgate such rules and issued its Order on November 25, 2009, titled *Supreme Court of Appeals of West Virginia Order Declining to Issue Rules Governing Statewide Licenses to Engage in the Business of Issuing Surety Bonds in Criminal Cases*. Thus, the only directives that are available for a trial court in granting authority to an individual to engage in the bonding business in the State of West Virginia are to consider the financial responsibility and the moral qualities, which is limited to whether the person so applying has ever been convicted of any offense involving moral turpitude, or who is not known to be a person of good moral character. W. Va. Code §51-10-8. Because the trial court did not follow the explicit and unambiguous directives of the West Virginia legislature and the Supreme Court of Appeals of West Virginia, the trial court committed reversible error in its finding that Mrs. Orem was not of good moral character. The basis for such a finding by the trial court was an abuse of its discretion because it used factors that are not provided for in any statute or case law in the State of West Virginia.

Additionally, the trial court used irrelevant information regarding the character of Mr. Orem in an effort to discredit Mrs. Orem by the association of a husband and wife. To that end, the trial court impermissibly used prior charges against Mr. Orem, which have since been expunged, as a basis for requiring Mr. Orem to submit to a drug test. (A.R. 23.) Specifically, the

trial court stated the following during the August 27, 2018, Hearing: "And we all understand what that underlying charge that was dismissed against [Mr. Orem] entailed. It entailed allegations of drug use. He, I believe represented at the time -- and I only understand this from what I read in the newspaper -- that he may have been sick and that whatever was found in his house was not his but the Court would think that Mr. Orem would want to make sure that there's not any question about his use of illicit drugs when he's here before the Court asking the Court to renew his authority to engage in the bonding business." (A.R. 23.) Petitioner is mindful that this case is before this Court in the form of an appeal from the denial of a petition, but, if the trial court's statements were to be subject to the West Virginia Rules of Evidence, Mr. Orem's prior charges that have since been expunged from his criminal record would be inadmissible. Specifically, Rule 404 of the West Virginia Rules of Evidence would preclude any mention of Mr. Orem's prior bad acts. Furthermore, evidence of allegations made against Mr. Orem concerning his illicit drug usage would also be inadmissible under Rule 403 of the West Virginia Rules of Evidence because its probative value does not substantially outweigh the prejudicial effect to Mr. Orem, and Petitioner for that matter. Thus, it was completely impermissible for the trial court to even mention Mr. Orem's prior criminal charges, which were later expunged, and to use such as a basis to prevent Petitioner from engaging in the bonding business in the 23rd Judicial Circuit of West Virginia.

Therefore, the trial court committed reversible error in denying Petitioner's *Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia*, and requires that this Court reverse the finding of the trial court and remand the case with proper instructions.

III. THE TRIAL COURT COMMITTED REVERSIBLE ERROR IN FINDING THAT MR. JOHN OREM VIOLATED AN ORDER OF THE TRIAL COURT BY ENGAGING IN THE BONDING BUSINESS WHEN IT WAS SPECIFICALLY ORDERED THAT HE NOT DO SO.

The trial court committed reversible error in finding that Mr. John Orem violated an order of the trial court by engaging in the bonding business when it was specifically ordered that he not do so. Specifically, the trial court found that Mr. Orem engaged in the bonding business on November 8, 2018, when he appeared at the Berkeley County Judicial Complex with his wife, Mrs. Orem, and answered certain questions for her while she was acting within her official capacity as an agent of Petitioner in writing and issuing a bond and also later providing a power of attorney.

First, Mr. Orem did not write any bond on behalf of Petitioner after being ordered by the trial court to refrain from such; nor did he actively engage in the bonding business after such date. Rather, Mr. Orem merely assisted his wife, the President of Petitioner, Mrs. Orem, in preparing a bond by answering certain questions that Mrs. Orem had in preparing and issuing a bond. As discussed *infra*, Mr. Orem had every right as a member of the public to be present in the courthouse on November 8, 2018, with Mrs. Orem, whether she was engaging in the bonding business or not. *See* W. Va. Code § 7-3-2 (1989). Moreover, Mr. Orem was not even an officer of Petitioner on November 8, 2018. (A.R. 215-37.) Thus, he did not have any authority to bind Petitioner to any action if Mr. Orem would have attempted to engage in the bonding business, which he specifically did not.

As for the power of attorney at issue, which the trial court erroneously believes was signed by Mr. Orem, it was a blank power of attorney form with a facsimile signature for the President of Petitioner from 2015 when the forms were printed, which was Mr. Orem. (A.R. 241-42.) Thus, the power of attorney form was signed by Mr. Orem in 2015 when he was permitted to engage in the bonding business and was the President for Petitioner. (A.R. 241-42.) The actual signature on

Petitioner's Power of Attorney Form #2251 that is relevant to the trial court's analysis was that of Mrs. Orem, the duly authorized executing agent for Petitioner. (A.R. 241.) Petitioner's corporate practice over the years was to order the power of attorney booklets with pre-populated forms that covered a five (5) year period. (A.R. 192.) When the power of attorney form was ordered and printed in 2015, Mr. Orem was the acting President for Petitioner. (A.R. 193.) Thus, Mr. Orem's signature was printed on the pre-populated power of attorney form as being the President for Petitioner in 2015. The fact that Mr. Orem's facsimile signature appears on the power of attorney form in no way is proof that Mr. Orem wrote and/or issued to the specific bond on November 8, 2018. In fact, the presentation of the pre-populated form and its effectiveness to create a surety on behalf of Petitioner is not predicated on the facsimile signature of Mr. Orem. Rather, the authority created by the pre-populated power of attorney is to appoint the named executing agent who signs the pre-populated power of attorney, which gives the executing agent the power and authority to sign on behalf of Petitioner thereby binding Petitioner to the bond being written and issued. In this case, Mrs. Orem was the executing agent, and her signature is clearly shown on the pre-populated power of attorney at issue. As such, the trial court committed reversible error by finding that Mr. Orem engaged in the bonding business on November 8, 2018.

IV. THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY FAILING TO TAKE INTO CONSIDERATION ANOTHER TRIAL COURT'S DECISION IN THE STATE OF WEST VIRGINIA IN FINDING THAT MRS. SHER OREM IS OF GOOD MORAL CHARACTER AND GRANTED SPECIAL SERVICES BUREAU, INC. THE AUTHORITY TO ENGAGE IN THE BONDING BUSINESS IN THE 17TH JUDICIAL CIRCUIT OF WEST VIRGINIA.

The trial court committed reversible error by failing to take into consideration another trial court's decision in the State of West Virginia in finding that Mrs. Sher Orem is of good moral character and granted Petitioner the authority to engage in the bonding business in the 17th Judicial Circuit of West Virginia. Specifically, the Honorable Judge Tucker of the 17th Judicial Circuit

granted Petitioner's *Petition to Renew its Authority to Engage in the Bonding Business in Criminal Cases in the 17th Judicial Circuit in Monongalia County, West Virginia*. (A.R. 238-39.) The Honorable Judge Tucker entered the order granting said petition on January 24, 2019. (A.R. 238-39.) In the court's order, the Honorable Judge Tucker found that Petitioner complied with West Virginia Code § 51-10-1, *et seq.* At the time of the entry of this order, Mrs. Orem was the acting President for Petitioner. (A.R. 238-39). Thus, the Honorable Judge Tucker found Mrs. Orem to be of good moral character. Moreover, it is important to note that the trial court in the present case had to amend its *Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia* during the hearing on February 22, 2019, which was reflected in the trial Court's *Order Denying Petitioner's Motion for Relief from Judgment*. (A.R. 182-84; 248-49.)

In the present case, the trial court ruled that Judge Tucker's actions were of no relevance to deciding the issue of the current case. (A.R. 202.) This ruling by the trial court directly contradicts the plain and unambiguous language of West Virginia Code § 57-1-5. Specifically, West Virginia Code § 57-1-5 states that "[a]ll courts and officers shall take notice of the signature of any of the judges, or of the Governor, of this state, to any judicial or official documents." The trial court disregarded the aforementioned statute by concluding that the order entered by the Honorable Judge Tucker of the 17th Judicial Circuit of West Virginia had no relevancy to the current case. The statute requires, at a minimum, for a trial court to take judicial notice of another trial court's order that has been signed by that judge. The trial court in this case refused to do so. (A.R. 201-02.) In fact, the trial court argued that Petitioner should have provided notice to the Honorable Judge Tucker of the trial court's *Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia*.

Morgan Counties, West Virginia. (A.R. 201-202.) However, the trial court completely disregarded the fact that at the time the Honorable Judge Tucker entered her *Order to Renew Authority for Bonding Privileges*, Petitioner was seeking relief from the trial court's *Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia*. Thus, at that time, there was a question as to whether the trial court's *Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia* would even still stand, when, in fact, the trial court ultimately amended its *Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia*. (A.R. 248-49.) Accordingly, the assertion by the trial court that Petitioner should have provided notice of the *Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia* is meritless because the trial court's *Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia* was not even final, and was subject to Petitioner's Motion for Relief from Judgment. Moreover, West Virginia Code § 57-1-5 does not provide any positive requirement for a party to bring to the attention of a court another court's pending order.

Additionally, Petitioner asserts that there are now inconsistent rulings in the lower tribunals of West Virginia that directly affects Petitioner's business and ability to engage in the bonding business. Specifically, the 23rd Judicial Circuit and the 17th Judicial Circuit have contradicting findings on the issue of whether Mrs. Orem is of good moral character pursuant to West Virginia

Code § 51-10-8. (A.R. 238-39; 248-52.) Thus, prior rulings from other circuits are relevant and should have been considered by the trial court. *See W. Va. R. App. P. 20.* As such, this case requires review by this Court because this case involves inconsistencies and conflicts among the decisions of lower tribunals.

Therefore, the trial court abused its discretion in failing to even consider the Honorable Judge Tucker's Order finding that Mrs. Orem was of good moral character and granting Petitioner the authority to engage in the bonding business in the 17th Judicial Circuit of West Virginia. Thus, this Court must reverse the decision of the trial court and remand this case with proper instructions.

V. THE TRIAL COURT'S ORDER DENYING SPECIAL SERVICES BUREAU, INC.'S MOTION FOR RELIEF FROM JUDGMENT CONTAINS LANGUAGE THAT WAS NOT CONTAINED IN THE PETITIONER'S PROPOSED ORDER DENYING SPECIAL SERVICES BUREAU, INC.'S MOTION FOR RELIEF FROM JUDGMENT.

The trial court committed reversible error because the trial court's *Order Denying Special Services Bureau, Inc.'s Motion for Relief from Judgment* contains language that was not contained in Petitioner's proposed *Order Denying Special Services Bureau, Inc.'s Motion for Relief from Judgment*. During the hearing on February 22, 2019, the trial court ordered Petitioner's counsel to submit a proposed order reflecting the trial court's rulings announced during the hearing. (A.R. 212.) Thereafter, on March 13, 2019, Petitioner filed with the clerk its proposed *Order Denying Special Services Bureau, Inc.'s Motion for Relief from Judgment*. (A.R. 243-46.) On March 15, 2019, the trial court entered its *Order Denying Special Services Bureau, Inc.'s Motion for Relief from Judgment*, which still contained the electronic signatures of Petitioner's counsels. (A.R. 248-52.)

However, the trial court altered Petitioner's proposed *Order Denying Special Services Bureau, Inc.'s Motion for Relief from Judgment* and added language that was not contained in the

proposed order. Specifically, the trial court added language to the fourth paragraph on page three of the *Order Denying Special Services Bureau, Inc's Motion for Relief from Judgment* that reads “[t]he Court further FOUND that the documents from the West Virginia Secretary of State evidenced the change in officers for Special Services was effective November 1, 2018 . . .” (A.R. 250.) Also, the trial court added the following clause to the fifth paragraph: “in regard to her not knowing that Mr. Orem could not engage in the bonding business, especially given that 7 days prior to the pivotal date of November 8, 2018, Mr. Orem signed over the company to Mrs. Orem.” (A.R. 250.) Finally, the trial court added the following paragraph: “[t]he Court stated that the only pertinent matter the Court was not considering was whether Mrs. Orem tried to conceal the identity of Mr. Orem. All other information relied upon by the Court in rendering its prior decision was still before the Court and substantially unchanged.” (A.R. 250-51.)

As mentioned above, the trial court left the electronic signatures of the attorneys for Petitioner on the trial court’s modified order as if Petitioner’s counsels approved the language and rulings contained in the trial court’s *Order Denying Special Services Bureau, Inc's Motion for Relief from Judgment*, which they did not. (A.R. 251-52.) The failure of the trial court to include the additional language in the *Order Denying Special Services Bureau, Inc's Motion for Relief from Judgment* is in derogation of West Virginia Trial Court Rule 24.01 because the trial court did not provide Petitioner with any notice of its changes to Petitioner’s proposed *Order Denying Special Services Bureau, Inc's Motion for Relief from Judgment* and did not allow Petitioner to file written objections to the trial court’s *Order Denying Special Services Bureau, Inc's Motion for Relief from Judgment*. These errors committed by the trial court constitute reversible error and require that this case be remanded to the trial court with instructions to enter an order consistent with the rulings made at the hearing.

VI. THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY ISSUING ITS *SUA SPONTE* ORDER DATED OCTOBER 3, 2018.

The trial court committed reversible error by issuing its *sua sponte* order dated October 3, 2018 (A.R. 48-50), because the trial court failed to give any notice to Petitioner that it was suspending its ability to engage in the bonding business. Such an order by the trial court was extremely prejudicial to Petitioner and has adversely affected its ability to conduct business. Additionally, the trial court's Order dated October 3, 2018 failed to provide any proper basis as to why the trial court was suspending Petitioner's authority to engage in the bonding business in the 23rd Judicial Circuit of West Virginia.

On April 18, 2018, the trial court issued its *Order Extending Time*, which ordered that Petitioner could "continue to engage in the bonding business in the 23rd Judicial Circuit, and that the current Order entered in case number 15-P-55, authorizing the Petitioner to engage in the bonding business in the 23rd Judicial Circuit, is extended beyond its expiration date of April 27, 2018, for as long as necessary for the Court to make a ruling on Petitioner's Petition For Renewal . . ." (A.R. 19-20.) In the trial court's order dated October 3, 2018, the trial court stated that "[t]he Court also made it clear [in the Amended Order from Hearing on August 27, 2018] that Petitioner was not to engage in the bonding business until such time as a urine sample was produced and the Court ruled on the merits." (A.R. 49-50.) Also, the trial court stated in that order that "[a]lthough the Court made it abundantly clear at the last hearing that Petitioner was not to engage in the bonding business until a final ruling on the merits, the Court understands Petitioner could have thought otherwise considering Judge McLaughlin's Order." (A.R. 50.) The trial court's aforementioned statements in the Order dated October 3, 2018, are clearly erroneous statements because the trial court never once made any such statement either at the August 27, 2018, Hearing or in any of its orders entered thereafter. (A.R.21-30; 43-44; 46-47.) At no time

during the August 27, 2018, Hearing did the trial court explicitly state or imply that it was revoking Petitioner's authority to engage in the bonding business. (A.R. 21-30.)

Also, the trial court failed to address the Petitioner's authority to engage in the bonding business in its *Order From Hearing on August 27, 2018*. (A.R. 43-44.) All that the trial court ordered at that time was that the matter was continued until a later date and that Mr. Orem was ordered to appear and submit to a drug screen on October 19, 2018. (A.R. 44.) Thereafter, the trial court entered another order on September 28, 2018, titled *Amended Order From Hearing on August 27, 2018*, whereby the trial court again failed to address the Petitioner's authority to engage in the bonding business. (A.R. 46-47.) All that the trial court ordered was that the matter was continued until October 29, 2018, and Mr. Orem had to appear and submit to a drug screen. (A.R. 47.) Thus, it is evident from the trial court record that the trial court never once provided notice to Petitioner that the trial court was revoking Petitioner's authority to engage in the bonding business in the 23rd Judicial Circuit of West Virginia.

Also, the trial court completely failed to provide any statutory authority or relevant case law that permitted the trial court to suspend Petitioner's authority to engage in the bonding business in the 23rd Judicial Circuit in West Virginia. (A.R. 48-49.) The trial court implied in the October 3, 2018 Order that it was suspending Petitioner's authority to engage in the bonding business in the 23rd Judicial Circuit in West Virginia until Mr. Orem provided to the trial court a urine sample for a drug screen. (A.R. 48-49.) However, during previous proceedings and in previous orders from the trial court, the trial court admitted that such a drug screen was not required by any rule. (A.R. 43; 46.)

Finally, this Court is fully aware of the limited role of the judiciary in the area of qualifications of bondsmen, and the granting of authority to engage in the same. Specifically, the

legislature has established and codified the qualifications of bondsmen; rules to be prescribed by courts; lists of agents to be furnished; renewal of authority to act; and false swearing, in West Virginia Code §51-10-8.² Specifically, the legislature has required that courts of record take into consideration “both the financial responsibility and the moral qualities of the person so applying, and no person shall be permitted to engage, either as principal or agent, in the business of becoming surety upon bonds for compensation in criminal cases, who has ever been convicted of any offense involving moral turpitude, or who is not known to be a person of good moral character.” Simply stated, the legislature has provided in unambiguous language that a court of record shall take into account “both the financial responsibility and the moral qualities of the person so applying,” and that no person can engage in the business if they have “ever been convicted of any offense involving moral turpitude, or who is not known to be a person of good moral character.” Petitioner argues that the trial court has determined that Petitioner has the financial responsibility, and the report of the Probation Office established that the Petitioner has no criminal record and is of good moral character.

This Court has reviewed West Virginia Code §51-10-8 in the context of the *sua sponte* suspension of bonding authority of an authorized bondsman by the circuit court of Jefferson County, West Virginia. *Dostert*, 171 W. Va. at 461, 300 S.E.2d at 102. In issuing a writ of prohibition, the *Dostert* Court declined to address the merits of the respective allegations; however, the Court held that a court’s grant of authority to a person to act as a bail bondsman sufficiently resembles a state license that a property right to that authority will be deemed to attach, and procedures comporting with constitutional “due process” protection must be invoked before the

² By Order entered March 11, 1985 and indexed as 85-AD-6 with the Clerk of the Circuit Court, the 23rd Judicial Circuit did adopt rules, regulations, and procedures for all persons and corporations engaging or seeking to engage in the “bonding business” as defined in West Virginia Code 51-10-1.

authority may be withdrawn.” *Id.* The Court further held that Article III, section 10, of the West Virginia Constitution and the 5th and 14th Amendments to the United States Constitution require that a written notice and a hearing must be provided a bail bondsman before his authority to act as a bondsman is revoked unless extraordinary circumstances exist to justify revocation before the hearing. *Id.* As discussed and argued *supra*, the trial court provided no such constitutional “due process” protection to the Petitioner prior to the trial court’s *sua sponte* termination of authority, and as such, has violated Petitioners rights to the same.

This Court has further reviewed West Virginia Code §51-10-8 in the context of House Bill 4148, which passed on March 13, 2004, and amended West Virginia Code §51-10-8, relating to the qualifications of bondsmen. Specifically, the amended statute directed this Court to promulgate rules to govern the authority of persons to engage in the bonding business in West Virginia, which included the qualifications for authority to engage in the bonding business, and the terms and conditions upon which the business may be carried on. This Court issued its Order on November 25, 2009, which declined to issue rules governing statewide licenses to engage in the business of issuing surety bonds in criminal cases.

This Court, in declining to issue said rules, reasoned that pursuant to the separation of powers set forth in Article V section 1 of the West Virginia Constitution, it is not appropriate for the judicial branch to exercise its constitutional rule-making authority to issue statewide licenses to engage in the business of issuing surety bonds in criminal cases, and that the licensing of professions and businesses is a matter firmly committed to the legislative and executive branches of government, apart from the judicial branches’ constitutional authority to regulate the practice of law. Finally, this Court stated that House Bill 4148 seeks to delegate to the judicial branch the function of issuing licenses to engage in the business of issuing surety bonds on a statewide basis,

and licensing of this nature is clearly not a judicial function. Petitioners posit to this Court that the trial court has exceeded its authority relative to the Petitioner's Petition, and any and all actions of the trial court regarding the same violates the separation of powers set forth in Article V section 1 of the West Virginia Constitution, and violates the Petitioner's due process rights regarding the same.³

Thus, the trial court's basis for denying Petitioner's authority to engage in the bonding business in the 23rd Judicial Circuit in West Virginia is without any proper legal authority. Accordingly, the trial court committed reversible error that requires this Court to reverse the decision of the trial court and remand this case to the trial court with proper instructions.

CONCLUSION

For the foregoing reasons, Special Services Bureau Inc., d/b/a A Regional Bonding Co. respectfully requests that this Honorable Court reverse the decision of the Circuit Court of Berkeley County in its *Order Denying Special Services Bureau, Inc.'s Motion for Relief From Judgment* and in its *Final Order Denying Amended Petition to Renew Authority to Engage in the Bonding Business in the Twenty-Third Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia*, which was amended during the hearing on February 22, 2019 and said amendments reflected in the *Order Denying Special Services Bureau, Inc.'s Motion for Relief From Judgment*, and remand this case to the Circuit Court of Berkeley County with proper instructions.

³ As discussed in Section I, *supra*, the trial court relied on irrelevant information regarding Mr. Orem's prior criminal charges, which were expunged, as a basis for requiring the drug tests throughout the pendency of the Petition. Such reliance only further shows that the Court's *sua sponte* Order dated October 3, 2018, deprived Petitioner its due process rights relative to its Petition.

Respectfully submitted this 9th day of July, 2019.

**SPECIAL SERVICES BUREAU INC., D/B/A A
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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of July, 2019, true and accurate copies of the foregoing
Petitioner's Appeal Brief were served on all parties to this appeal.



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June 11, 2020

West Virginia Supreme Court of Appeals
Edythe Nash Gaiser, Clerk of Court
Capitol Complex
1900 Kanawha Blvd., East
Building 1, Room E-317
Charleston, WV 25304

Re: Special Services Bureau, Inc., d/b/a A Regional Bonding Co.
Docket No: 19-0365

Dear Ms Nash Gaiser:

Enclosed please find, herewith, for filing with the Court, the following:

1. A Notice of Appearance in the above referenced matter; and
2. An original and (10) copies of the Petition for Rehearing, and
3. An original and (5) copies of the Motion to Supplement Appendix, and
4. An original and (5) copies of the Motion to Exceed Page Length in this matter.

Thank you for your kind consideration in this matter.

Sincerely,



Christian J. Riddell

CJR/jh
cc: Honorable Laura V. Faircloth
Enclosures as Stated

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

SPECIAL SERVICES BUREAU, INC.,
d/b/a A REGIONAL BONDING CO.

PLAINTIFF BELOW,

PETITIONER,

PETITION FOR REHEARING

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Introduction

This matter comes before this Honorable Court on a Rule 25 Petition for Rehearing. Petitioner avers that this Court's April 6, 2020 memorandum decision fails to fully account for the relevant facts and Constitutional principles which inform and support the assignments of error previously alleged in Petitioner's perfected appeal, and that this may likely have been because such facts and law were not sufficiently explicated before this Honorable Court. As such, a full accounting of the relevant facts and a supplementation of relevant law will dramatically assist the Court in rendering a full and fair decision on the instant matter. Moreover, this case involves a number of Constitutionally significant questions and offers the Court a singularly appropriate mechanism to clarify the standards to be used statewide in adjudicating Petitions for renewal of bail bonding privileges.

As such, Petitioner requests a rehearing on this matter so as to aid the Court in ensuring that its decision is constitutionally aligned as well as consistent with the greater corpus of West Virginia's jurisprudential precedent. A rehearing on this matter would present a significant opportunity for the Court to clarify the boundaries of permissible discretion at the circuit court level so as to create a fairer, more predictable, and more uniform statewide system of governance regarding bail bonding - a position of significant public interest.

Additionally, a rehearing would also provide Ms. Orem a chance to clear her name, which has been tremendously and erroneously damaged by the Circuit Court's findings. The decision has had a significant material adverse impact on her life, as she has suffered not only

generalized harm to her reputation, but also has been expelled or disinvited from local organizations of which she wished to be part.¹

As such, given both the legal and personal stakes involved in this matter, and given the important constitutional issues at play, described in detail below, Petitioner requests that this Honorable Court grant a rehearing on Petitioner's Appeal and reverse its prior decision as to Petitioners first and second assignments of error.

Finally, the Supreme Court's April 6th Order erroneously includes language, at page 2, which suggests that the Circuit Court made a finding of no good moral character against John Orem. In fact, the record demonstrates that the Circuit Court did not make any findings of fact regarding John Orem, but merely continued the renewal hearing and suspended Mr. Orem during the continuances pendency because of the newly imposed drug testing protocol. As such, this finding should be amended as well.

Argument

I. THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY FAILING TO GRANT SPECIAL SERVICES BUREAU'S MOTION FOR RELIEF FROM JUDGMENT IN ITS ORDER DENYING SPECIAL SERVICES BUREAU, INC'S MOTION FOR RELIEF FROM JUDGMENT DATED MARCH 15, 2019.

The West Virginia Supreme Court's April 6th Memorandum Decision relies on a number of erroneous factual premises which may not have been fully explicated in the previously filed appeal but which nevertheless demonstrate that the Circuit Court's factual findings regarding Sher Orem and John Orem's lack of good moral character were arbitrary and capricious insomuch

¹ Ms. Orem recently received a letter from CASA of the Eastern Panhandle informing her that, because of the Circuit Court's findings, she would no longer be able to work with the organization.

as the findings are directly contrary to the weight of the evidence and or assumes facts which were not in the record.

The Supreme Court's April 6th decision upheld the Circuit Court's finding that Sher Orem lacked good moral character because "[T]he Circuit Court founded its determination on other considerations. Namely, the circuit court found that Ms. Orem's testimony that she was unaware that her husband was prohibited from engaging in bail bonding unreliable," and "The Court also stood by its finding that Mr. Orem attempted to engage in bail bonding when he accompanied Ms. Orem to magistrate, and noted that Ms. Orem was aware at the time that she was doing so." However, these factual determinations cannot withstand judicial scrutiny because they are arbitrary and capricious findings. As will be shown below, there is no testimony or other evidence elicited which would suggest that John Orem engaged in bail bonding during the time he was suspended, nor is there any evidence presented that Sher Orem knowingly helped him do so. To demonstrate this, Petitioner will provide detailed citations to relevant portion of the transcripts regarding both (a) Sher Orem's understanding of John Orem's suspension and his involvement on November 8th, and (b) the legal and factual circumstances surrounding the use of the Power of Attorney 2251.

A. Sher Orem's Testimony Regarding John Orem Suspension and his involvement on November 8th

During the hearing, the Court inquired as to the purpose of Mr. Orem's presence in Magistrate Shull's office on November 8, 2018, asking, "Is [your bringing Mr. Orem] because you didn't know how to do the bond and you needed his assistance?" and Ms. Orem responded, "It's more nervous when I come to the court... I was nervous and I had asked him to come with me to make sure I was doing everything properly because, you know, I was nervous." *Transcript*

from Proceedings Held on Petition to Renew Authority November 28, 2018, ll. 6-1 to -7

(*Appendix Record* (“AR”) 101). Petitioner would note that Ms. Orem, with this response, is not being evasive as to Mr. Orem’s presence or the reason he was there, but is admitting that she was nervous and wanted his advice. There is nothing illegal or fraudulent about having a third party advise a bail bondsmen on how best to submit bail paperwork.

The Court next inquired about whether, on that same day, she had attempted to hide Mr. Orem’s presence, which Ms. Orem categorically denied. *Id.* at 6-8 to -19. She further stated that Magistrate Shull had requested that a power of attorney be included with the bond, and that Mr. Orem had signed the same. *Id.* at 7-14 to 8-9. The Court then inquired as to whether Ms. Orem was aware that “at the time that you went to Magistrate Shull’s office of this Court’s ruling that John Orem was not to engage in the bonding business at all?” and she responded, “No ma’am. I was under the understanding that you guys were in the process of trying to renew but not that he wasn’t able to do anything on behalf of the business.” *Id.* at 8-14 to -21. The court pressed further, eliciting the following exchange:

THE COURT: and you’re telling this Court that you took over the presidency of the corporation and were unaware of the ruling that this Court that you took over the presidency of the corporation and were unaware of the ruling that this Court had made about what Mr. Orem was allowed to do and not allowed to do; correct?

THE WITNESS: Yes ,ma’am, I actually am.

THE COURT: So he came to court on more than one occasion and didn’t tell you anything about the Court’s order?

THE WITNESS: No, he didn’t not tell me anything. He just was more vague on the ruling was being pushed back in deciding on his renewal because of drug testing is what more of my understanding was of the situation.

THE COURT: All right. Because the Court did have the court reporter prepare a transcript from the last hearing because I wanted to be sure that my recollection was accurate and I specifically said at page 2 of the transcript that he, meaning John Orem, is not to engage in any act of bonding until we’re back before eth Court and the Court

has a final determination on the merits of the petition. So would that surprise you that that's what the Court ruled last time?

THE WITNESS: I didn't have knowledge of that exact ruling. No, ma'am.

Id. at 8-15 to 9-21.

This exchange plainly shows that Ms. Orem did not deny speaking with her husband about the case or the Court's prior orders, but merely that Mr. Orem was vague about what exactly was prohibited. She acknowledged that she'd been told by Mr. Orem that the Renewal Petition had been continued because of drug testing concerns, which was verifiably true. The Court then further inquired as to how the company would be operating, and Ms. Orem averred that it would be only she and Tyler Cates operating the bonding business, and that Mr. Orem would not be involved in the bonding business at all. *Id.* at 10-4 to -15. The Court then further inquired as to the power of attorney signed by Mr. Orem, who freely admitted that the handwriting was his, and that he had brought the power to her at the Magistrate's office. *Id.* at 10-22 to 11-7. All of this information is true, and none of it is indicative of any act which violated the Court's October 3rd Order.

Moreover, the bond paperwork itself, specifically the Consent to Apply Deposit (AR 240), which was signed by Magistrate Shull, shows plainly that Sher Orem was the only individual who signed as surety on behalf of Regional Bonding Co (Petitioner's DBA). As such, she is the only person engaging in the business of bail bonding regarding this bond. The fact that Mr. Orem may have advised her on how to fill out the paperwork is of no moment because advising another bondsmen is not illegal or in violation of Judge Faircloth's October 3rd Order.

B. Legal and Factual Basis Surrounding Use of Power of Attorney 2251.

In arguing Petitioner's Rule 60 motion, Counsel for Petitioner Greg Kennedy explicitly laid out the rational and legal basis for why the Power of Attorney which was signed by Mr.

Orem does not amount to Mr. Orem's engaging in the business of bail bonding while being prohibited from the same. Said Mr. Kennedy:

[I]ts been the corporate practice over the years to actually go to a printer and have pre-populated forms created so that if they have to grab a booklet to produce a bond... I will represent to the Court that it is my client's corporate practice to order these and in bulk for the five-year period such that the documents that are in this booklet here that I would like to present the court for inspection as well as [Power of Attorney] 2251 [presented to Magistrate Shull on November 8th] that the Court has copy in front of were obtained in 2015 and if you'll notice in the upper right-hand corner it says valid and posted until December 31, 2020. So you can see that the corporate practice would then be for the next timeframe 2021 to 2025 another batch if you will be ordered form the publisher.

So, your honor, I'll hand this to your bailiff and he can present it to you. It's a clearer version of a blank power of attorney in color and the reason I provide the corporate formality of how my client orders it I don't think there is any dispute in 2015 when this booklet was ordered Mr. Orem was in fact the president... there was a representation Mr. Orem had in fact signed this document and I don't believe that to be technically correct as it related to the issues in front of the Court. I will say that in 2015 he did sign something that was produced and made art ready for a printer that made its way to these pre-populated forms as far as the signator on power of attorney 2251 that was executed by the executing agent who is clearly Sher Orem on the document that I provided to the Court... but the presentation of this document and its effectiveness to create surety on behalf of Regional Bonding is in no way shape or form predicated on the signature that is pre-populated in the document. Rather if we look at the fact of the power of attorney which is the same language on each denomination it clearly states that the authority and created hereunder by the corporation is to appoint the named executing agent who signed such power of attorney and they are given all power and authority to sign on behalf of the company... So, your Honor, the document that was brought back in the afternoon, the power of attorney 2251, it was properly executed by Mrs. Orem as the executing agent and the signature of Mr. Orem was not a signature that was affixed to the document on such date but it was created years before for the purpose of artwork for a printer to created pre-populated forms... No where in here does it say any – it all contemplates the corporation has duly constituting appointing the executing agent as its true and lawful attorney of fact with full power and authority to sign the company's name and any such signature shall be binding upon the company. So as far as this being a document – maybe a better way to explain my position is if John W. Orem signed this document which was pre-populated in 2015 and Mr. Orem unfortunately met his demise in 2016 this document would not be invalid. This documented is created as a way where a corporation denotes its full authority to execute in the person denoted and defined as the executing agent.

Transcript from Proceedings on Motion for Relief From Judgment, February 22, 2019 Hearing (AR 181), ll. 12-6 to 16-17 (emphasis added). In further support of his argument, Mr. Kennedy

admitted into the record a copy of another blank power of attorney, which also bore the same John Orem signature under the line for the SSB's presidents (*AR* 242).

The Court, still unconvinced, reiterated its concerns that Mr. Orem's signature is what made the document operable, to which Mr. Kennedy correctly replied that the document was that of SSB signed by the effective president at the time of signing, not Mr. Orem personally, and then provided an apt analogy, saying "We'll look at another document that may have an actual effective signature on it. I'm looking at my West Virginia Driver's license and it was signed by Earl Ray Tomblin is no longer the governor of West Virginia and I don't believe that that invalidates my driver's license." *Id.* at 17-10 to -24.

The Court next responded by suggesting that Ms. Orem, as president, would have had the authority to sign the power of attorney herself, to which Mr. Kennedy correctly noted that "She could have, your Honor, but there is absolutely no requirement under the statute that that act had to be taken." *Id.* at 19-20 to -24. The Court then reiterated its concerns with Mr. Orem assisting Ms. Orem in filling out the bond paperwork, to which Mr. Kennedy again correctly observed "I can think of no lawful requirement that says a person that works in an office might be a spouse of someone cannot accompany them into a public facility for the purposes of delivering paperwork." *Id.* at 21-3 to -6. The Court then inexplicably responded that, "Well, I think a public office is slightly different than a privately-owned corporation that would be the Court's interpretation of that. So let's move on." *Id.* at 21-7 to -9.

A review of the document itself, which was admitted into the record as Plaintiff's [Petitioners] Exhibit 4 (*AR* 241), states in relevant part as follows:

KNOW ALL YE MEN BY PRESENTS that Special Services Bureau, Inc... does hereby constitute and appoint the named Executing Agent its true and lawful Attorney-in-Fact, with full power and authority to sign the company's name and affix its corporate seal to, and deliver on its behalf, as any and all obligations as herein provided, and the execution of such obligation of such obligations in pursuance of these presents shall be as binding upon the company as fully and to all intents and purposes as if done by the regularly elected officers of said company... The obligation of the company shall not exceed the sum of fifty-one thousand dollars.

The named executing agent is clearly designated as Sher Orem by her signature as to the same in the document's lower right hand corner. As such, the Power of Attorney is a document which confers upon Sher Orem, the named executing agent and the only individual engaging in bail bonding based on this document, the legal authority to act on behalf of Petitioner SSB. The authority to act on behalf of SSB is conferred to the Executive Agent necessarily by SSB's president, who at the time of the signing of this document (in 2015) was John Orem. The document stipulates that it remains valid until December 31, 2020. Thus, as long as John Orem was in fact the president of SSB when he signed the document, then the document is valid, and as long as John Orem did not sign this document during the time period when he was disallowed from bonding pursuant to Judge Faircloth's October 3, 2018 Order, then he was not engaging in the business of bail bonding in violation of said Order. In point of fact, we know for certain that John Orem could not possibly have executed a valid power of Attorney as SSB president on November 8, 2018 because he was no longer even the president as of secretary of state Application to Appoint or Change Officers which was filed and received by the Secretary of State on November 1, 2018 (AR 235).

Nevertheless, the Court rendered its decision, stating as follows:

The Court has heard your arguments Mr. Kennedy and has considered much of what you had to say here today prior to taking the bench. The Court does accept the documents and accepts them into evidence 1 through 4 today and they do demonstrate the application to appoint or change officers was filed with the secretary of state on November 1, 2018 and that became the effective date by which Mrs. Orem was

authorized to transact all business by and on behalf of the corporation Special Services Bureau Incorporated.

The Court further finds that November the 8th was the pivotal date involving the Court's prior order and that the Court had previously ordered John Orem not to engage in the bonding business and Mr. Orem was present in court on the dates that the Court ordered him not to engage in the bonding business until we had clarified some issues at that point as they related to Mr. Orem. Mr. Orem however continued to engage in the bonding business by accompanying his [wife] Mrs. Orem to Magistrate Shull's office on November 8 after she became the president and he no longer was the president and he instructed her on how to complete the paperwork and if the Court recalls correctly from the last hearing some of the handwritten information that was ultimately provided to Magistrate Shull was completed Mr. Orem.

The Court finds that even if Mrs. Orem, Sher Orem, did not remember whether or not her husband had been instructed by the Court or whether or not he had told his wife that the Court had instructed him not to engage in the bonding business until further order of the Court she was acting as the president of the corporation on November 8, 2018 and was at that time charged with the duty and responsibility to know what all persons in the corporation were allowed to do and not to do. And the Court does not find that her prior testimony was credible that she did not know her husband was allowed to do or not do given the fact that just seven days earlier he had turned the entire business over to her. There had to be conversation reasonably between the two persons who are married to one another as to why that occurring. And so the Court finds that Mr. Orem contrary to the court's order was attempting to write or participate in the writing of a bond on November 8, 2018 and that Mrs. Orem knew that that was occurring and that it was in contravention of the court's prior order.

In looking at the Court's order that was entered December 4, 2018 it appears that the only pertinent matter that this Court is no longer considering is whether or not Mr. Orem intentionally tried to conceal the identity of her husband John Orem from Magistrate Shull's assistant on November 8, 2018. Unfortunately all of the other information that the Court relied upon in rendering its decision is still before the Court and substantially unchanged. Therefore the Court cannot find that Sher Orem is going to be of good moral character as required by West Virginia Code § 51-10-8 and therefore stands by its original petition – its original order in the totality of all the circumstances.

Id. at 30-5 to 32-24 (emphasis added).

This holding is manifestly against the clear weight of the facts and amounts to arbitrary and capricious findings. First of all, the Court appears to be basing its finding of bad moral character against Sher Orem in part on the fact that, if she didn't know that Mr. Orem was barred, she should have in her role as president. However, whether or not she should have known certain information has no bearing whatsoever on anything that could be considered moral character,

even assuming that moral character is sufficiently defined so as to be constitutional (which it isn't, as will be discussed in detail below).

Second, Mr. Kennedy's explanation of the Power of Attorney signature amounts to total explanation as to why the uncontested evidence of Power of Attorney 2251 does not amount to engaging in business of bail bonding while prohibited, to wit, because said POA is document of Petitioner SSB, Inc – not of John Orem - which confers upon the authorized agent the authority to bind the company based on the SSB President's signature – which happened to be John Orem in 2015 when it was signed. The Court appeared, at the February 2019 hearing, to accept this information as true and yet found that the same amounts to bail bonding anyway.

II. THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY FINDING SHER OREM WAS NOT OF GOOD MORAL CHARACTER IN REGARD TO HER REQUESTED AUTHORITY TO ENGAGE IN THE BONDING BUSINESS IN THE 23RD JUDICIAL CIRCUIT ON BEHALF OF SPECIAL SERVICES BUREAU, INC.

In addition to the erroneous factual findings discussed above, the West Virginia Supreme Court failed to consider a number of constitutional infirmities in the Circuit Court's prior decisions related to Petitioner's second assignment of error which amounted to violations of Petitioner's due process rights under the U.S. and West Virginia Constitutions. Although these matters were in some cases not expressly objected to or identified at the trial court level, the Court is authorized to take these matters into consideration under the plain error doctrine. Although it is a well-settled policy that the Supreme Court of Appeals normally will not rule upon unassigned or imperfectly assigned errors, this Court will take cognizance of plain error involving a fundamental right of an accused which is protected by the Constitution." Syl. pt. 4, *State v. Starr*, 158 W.Va. 905, 216 S.E.2d 242 (1975); Syl. Pt. 1 *State v. Hatala*, 345 S.E.2d 310, 176 W.Va. 435 (W. Va. 1986).

As such, Petitioner asserts that the Court's actions in denying Petitioner's license to engage in bail bonding on the grounds of lack of good moral character are in error because: (a) the "good moral character" language is unconstitutionally vague and must be stricken from the bail bonding statute; (b) even if it wasn't unconstitutionally vague, indicia of past drug use cannot be the basis for any such finding; and (c) even if it such drug use could be used as a basis for a lack of good moral character finding, the Court's process in doing so was constitutionally infirmed insomuch as it violates the due process and equal protection clauses of the U.S. Constitution and amounts to an arbitrary and capricious application of law.

A. The "Good Moral Character" Language of W.Va. Code § 51-10-8 is unconstitutionally vague and must be rendered void

Statutes involving a criminal penalty, which govern potential First Amendment freedoms or other similarly sensitive constitutional rights, are tested for certainty and definiteness by interpreting their meaning from the face of the statute. Syl. Pt. 3, *State v. Flinn*, 208 S.E.2d 538, 158 W.Va. 111 (W. Va. 1974). Vague statutes "invite the exercise of arbitrary power ... by leaving people in the dark about what the law demands and allowing prosecutors and courts to make it up." *Id. at 234-35*. The void-for-vagueness doctrine thus ensures citizens have fair notice of prohibited conduct, guards against discriminatory enforcement of ambiguous laws, and respects the foundational principle that only Congress—not the executive or the courts—is empowered to establish the bounds of proscribed conduct. *United States v. Simms*, 914 F.3d 229 (4th Cir. 2019).

In *Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972), the U.S. Supreme Court, in setting forth the rationale for this principle, foreshadowed the very concerns at stake in the case at bar, stating:

Vague laws offend several important values. First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warnings. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory applications.

(Emphasis added).

In keeping with this line of thinking, the U.S. Supreme Court explicitly held, just last year, that vague statutes should not be saved by judicial interpretation, but rather must be declared void so as to incite the legislature to amend. Said Justice Gorsuch,

Vague laws transgress both of those constitutional requirements. They hand off the legislature's responsibility for defining criminal behavior to unelected prosecutors and judges, and they leave people with no sure way to know what consequences will attach to their conduct. When Congress passes a vague law, the role of courts under our Constitution is not to fashion a new, clearer law to take its place, but to treat the law as a nullity and invite Congress to try again.

United States v. Davis, 139 S. Ct. 2319, 2323, 204 L.Ed.2d 757 (2019)

The operation of a bail bonding business is a designated property right under West Virginia law, and, as such, the denial a petition for renewal amounts to a criminal penalty against the license holder and necessitates due process. *See Syl. Pt. 1, State ex rel. Weaver v. Dostert*, 171 W.Va. 461, 300 S.E.2d 102 (W.Va. 1983). (“A court's grant of authority to a person to act as a bail bondsman sufficiently resembles a state license that **a property right to that authority will be deemed to attach, and procedures comporting with constitutional "due process" protection** must be invoked before the authority may be withdrawn”) (emphasis added).

'A statute may contain constitutional and unconstitutional provisions which may be perfectly distinct and separable so that some may stand and others may fall; and if, when the unconstitutional portion of the statute is rejected, the remaining portion reflects the legislative

will, is complete in itself, is capable of being executed independently of the rejected portion, and in all other respects is valid, such remaining portion will be upheld and sustained.' Syllabus Point 6, *State v. Heston*, 137 W.Va. 375, 71 S.E.2d 481; *State v. Flinn*, 208 S.E.2d 538, 158 W.Va. 111 (W. Va. 1974). Additionally, a vague provision will not be considered constitutional merely because there is some conduct that clearly falls within the provision's grasp. *Johnson v. United States*, 135 S. Ct. 2551, 2561, 192 L. Ed. 2d 569 (2015).

In the case at bar, Petitioner submits that the “good moral character” language of W.Va. Code § 51-10-8 is void for vagueness and, per Judge Gorsuch’s admonition in *Davis*, must be removed from the statute rather than interpreted, though the remaining statutory language should not be disturbed. The phrase “good moral character” has no definition in the relevant statutory scheme (§ 51-10-1 et seq.), nor does it appear to be defined historically by any relevant West Virginia legal precedent.² The only place the language is found at all under West Virginia law, other than in the instant statute, is in certain administrative regulations which include within their regulatory framework a definition of moral character necessary for application of the statute. Although it is true that, as in *Johnson*, there may be some actions which would clearly run afoul of any reasonable definition of “good moral character,” the statute is nevertheless unconstitutionally vague. Moreover, although in *Weaver*, supra, the West Virginia Supreme Court of Appeals found that the procedures outlined in § 51-10-8 were not unconstitutionally vague, such a finding, per *Heston*, supra, does nothing to alter the unconstitutional vagueness of

² Petitioner would note here that even if West Virginia Court’s had previously create a definition for “good moral character,” it would not save the statute, per Justice Gorsuch’s admonition in *Davis*, supra, because vague laws do not lose their unconstitutionality by virtue of the fact that a Court has substituted a statute’s language for their own because it is not the role of the courts to do so. Rather, the responsibility of the court is to “treat the law as a nullity and invite Congress to try again.” 139 S.Ct. at 2323.

the “good moral character” phrase specifically, because that language can simply be removed and § 51-10-8 can continue to be executed upon without difficulty.

Copley v. Department of Health and Human Resources, 479 S.E.2d 619, 198 W.Va. 109 (W.Va. 1996) is, to undersigned knowledge, the only West Virginia case which discusses the definition of good moral character, though it does so under highly distinguishable circumstances which cannot fairly be applied to the bonding statute at issue in the case at bar and which, pursuant to the U.S. Supreme Court in *Davis*, *supra*, should not, in any case, function to save the vagueness of W.Va. Code § 51-10-8’s moral character language. In *Copley*, the Court referenced state regulation 64 W.Va. CSR 65-5.2.3, which requires that the administrator of a nursing home be “of good moral character.” Unlike the provisions of W.Va. Code § 51-10-8, the regulatory structure included enumerated factors for determining good moral character, stating that “the secretary may consider evidence of abuse, fraud, or convictions within the previous five years of a crime relevant for the provision of care to a dependent population.” *Id.* at 626 (quoting 64 W.Va. CSR 65-5.2.3.). This case is relevant in two ways: (1) it highlights the Constitutional contrast between the regulation at 64 WV CSR 65-5.2.3 which specifically define, for the regulations purposes, the parameters of good moral character, unlike the provisions W.Va. Code § 51-10-1 et seq.; and (2) even if the *Davis* holding did not exist and this court was permitted to insert a definition for good moral character into the statute based on the definition provided in *Copley*, we would still need to find that neither Sher nor John Orem lacked good moral character under such a definition because there is nothing in the record which indicates that they committed abuse or fraud, nor is there anything which suggests that they were convicted within the previous years of any crimes.

Other jurisdictions have also dealt with the Constitutionality of “good moral character” requirements. In *Gombach v. Department, Bureau of Com'ns, Elections & Legislation*, 692 A.2d 1127 (Pa. Commw. Ct. 1997), the Pennsylvania Supreme Court addressed the argument that the phrase “good moral character” was unconstitutionally vague, but relied on the fact that a definition had previously been provided by the Pa. Supreme Court such that the Petitioner had sufficient notice of the definition. Id. at 1130. While Petitioner would again note that Justice Gorsuch’s recent holding in *Davis* requiring nullification over interpretation makes the Pennsylvania Supreme Court’s actions here inappropriate, Petitioner raises the case to suggest that, even if this Court decided to act similarly, it would be unable to rely on interpretations from prior precedents because West Virginia lacks any case precedent which would allow it to make a similar finding, as *Copley, supra*, relates only to administrative regulations wherein a definition tailored to the specific regulatory needs is already included. Additional out-of-state decisions of interest include: *Puciaty v. U.S. Dept. of Justice*, I.N.S., 125 F.Supp.2d 1035 (Haw. 2000) (holding that an intentional refusal to pay parking tickets is not evidence of bad moral character); *Much v. Alaska Police Standards Council, April 11, 2018 Memorandum Decision (AK 2018)* (rejecting a challenge to good moral character language on the basis that the relevant administrative regulations included a definition for good moral character; and *Bureau of Health Professions v. Serven*, 303 Mich.App. 305, 842 N.W.2d 56, 5641 (Mich. App. 2013) (where relevant professional regulations included a definition for good moral character and where performing medically unnecessary treatment does not constitute bad moral character.)

B. The Circuit Court Exceeded Its Jurisdiction and violated Petitioner’s Due Process Rights in Erroneously Ordering Drug Testing as a Condition of Bond Renewal and Linking a Positive Test to Bad Moral Character

Although neither the relevant statutory scheme nor West Virginia case precedent provides sufficient definition of “good moral character,” to pass constitutional muster, we do know that the West Virginia Supreme Court has explicitly excluded drug use or drug convictions as predicate evidence for immorality, and, as such, the Berkeley County Circuit Court clearly exceeded its jurisdiction in ordering Petitioner’s then-acting president, John Orem, to take a drug test and subsequently suspending John Petitioner’s license pending a negative drug test³ – an act which predicated and set in motion Sher Orem’s involvement.⁴ “Where a court lacks jurisdiction, or is without power or authority to render the order, refusal to comply with such order may not be punished.” Syl. Pt. 3, *State ex rel. Askin v. Dostert*, 295 S.E.2d 271, 170 W.Va. 562 (W. Va. 1982). Petitioner would submit that, because the Court lacked jurisdiction to require drug testing for the purpose of a bail bond renewal, all acts which followed the Court’s *August 2018 Order* compelling Mr. Orem to take a drug test and then subsequently denying Petitioner’s petition for bad moral character are similarly devoid of jurisdiction and must be invalidated.

On November 25, 2009, the West Virginia Supreme Court issued its decision *In Re Declining to Issue Rules Governing Statewide Licenses to Engage in the Business of Issuing Surety Bonds in Criminal Cases*, wherein it delegated the establishment of bail bondsmen requirements to the Circuit Courts. Slip Op. p. 4-5. The Local Rules in effect in the 23rd Circuit can be found in case number 85-AD-6, In Re: Professional Bondsmen (AR 254). There is no requirement for drug testing in these local rules.

³ Petitioner notes that the only reason Mr. Orem even tested positive to begin with was because of surgeries he had and corresponding medications he had had administered (AR 24).

⁴ The Circuit Court attempted to claim that it was not ordering Mr. Orem to submit to drug screening, but was merely requesting that he so volunteer. However, the factual context around the request, in particular the Court’s refusal to renew his license until the drug testing results were provided, indicate unequivocally that Mr. Orem was ordered to take a drug a test as part and parcel of any renewal of Petitioner’s bonding license.

In *Golden v. Board of Educ. Of Harrison County*, 285 S.E.2d 665, 169 W.Va. 63 (W. Va. 1981), the West Virginia Supreme Court held that the Harrison County Board of Education could not terminate a teacher for petty theft outside of school on the basis that said theft was an act of immorality under W.Va. Code § 18A-2-8. The Court further noted that, when confronted with an ambiguous term such as “immorality,” the court “seeks to determine if a ‘rational nexus’ exists between the conduct complained of and the duties to be performed.” *Ibid.* This holding was then applied in *Rogliano v. Fayette County Bd. of Educ.*, 347 S.E.2d 220, 176 W.Va. 700 (W. Va. 1986), where the Court “noted that the term “immorality” as used in the statute was incapable of precise definition and concluded that if the decision to suspend or dismiss a teacher were based solely on the board’s examination of the teacher’s conduct, it could result in a statute void for vagueness or in an unwarranted intrusion into the teacher’s right of privacy.” *Rogliano*, *supra*, 347 S.E.2d. at 224 (emphasis added). The Court, citing Golden’s “rational nexus” language, held that “in this case, there was no evidence that the appellant’s alleged misconduct had directly affected his performance of his occupational responsibilities.” *Id.* at 224-25. Just the same, there is no rationale nexus between the job of a bail bondsmen and a positive drug test, nor was there ever any allegation that John Orem was engaged in drug use while at work.

Moreover, even if drug testing had been a valid consideration for adjudicating moral character, the Court’s use of lay and hearsay testimony to establish John Orem’s unprescribed drug use is clearly erroneous and amounts to a plain error due process violation. In order for test results of any kind to be admissible, the following foundation must be laid: (1) that the testing device or equipment was in proper working order; (2) that the person giving and interpreting the test was properly qualified; (3) that the test was properly conducted; and (4) that there was compliance with any statutory requirements. *State v. Hood*, 155 W.Va. 337, 342, 184 S.E.2d 334,

337 (W.Va. 1971); *State v. Dryer*, 233 S.E.2d 309, 310 (W.Va. 1977); *State v Franklin*, 327 S.E.2d 449, 454, 174 W.Va. 469 (W.Va. 1985). Per the U.S. Supreme Court, the use of lab results without the testimony of the analyst who conducted the test violates the Sixth Amendment of the U.S. Constitution. *Melendez-Diaz v. Massachusetts*, 129 S.Ct. 2527, 557 U.S. 305, 311, 174 L.Ed. 2d 314, (2009); *Crawford v. Washington*, 541 U.S. 36, 124 S.Ct. 1354, 158 L.Ed. 2d 177. In the case at bar, the Court clearly admitted evidence of drug testing results without the testimony of the analyst who conducted the test during the October 29, 2018 hearing. October 29, 2018 Hearing Transcript (AR 87), ll. 15-18 to 18-1. Thus, even if the Court had been permitted to require drug testing as a condition precedent to granting a bail bonding renewal, it had no authority take any action based on such constitutionally infirmed evidence.

C. The Berkeley County Circuit Court’s Selective Application of Drug Testing to Petitions for Bond Renewal Amounts to a Violation of the Equal Protection Clause

The Circuit Court’s act of attempting to drug test applicants which come before Judge Faircloth’s Court, even if applied evenly to every bond application before Judge Faircloth (which has been shown not to be the case given Sher Orem’s lack of drug testing at the start of the November 2018 hearing⁵), amounts to a violation of the equal protection clause of the U.S. Constitution’s 14th Amendment, which forbids any state from “deny[ing] to any person within its jurisdiction the equal protection of the laws.”

West Virginia has previously applied this provision to economic rights, and has found in such cases “we look to see whether the classification is a rational one based on social, economic,

⁵ Although the Court attempts to explain this discrepancy in its Final Order Denying Amended Petition to Renew Authority (AR 136) by stating that it had intended to drug test her at the conclusion of the hearing but saw no need based on her testimony, this explanation is at odds with the Court’s own long-standing practice of ordering drug tests at the beginning, rather than the end, of a hearing so as to insure time to procure the instant results and make inquiry as to those results during said hearing. It would make little sense to do otherwise.

historic or geographic factors, whether it bears a reasonable relationship to a proper governmental purpose, and whether all persons within the class are treated equally.” Syl. Pt. 2, *State ex rel. Longanacre v. Crabtree*, 350 S.E.2d 760, 177 W.Va. 132 (W. Va. 1986).

Immediately we can see that, by virtue of the fact that Judge Faircloth is the only judge in the 23rd Circuit who places, or has ever placed, the additional prerequisite of a negative drug screen upon a petitioner for bonding authority renewal (and to the best of undersigned’s knowledge John Orem is the only bondsmen who has ever been subject to such a requirement), all individuals within the classification of bondsmen are not being treated equally under the law.

In *Longanacre, supra*, the West Virginia Supreme Court found that it was a violation of equal protection for the legislature to create a carve-out exception to the magistrate salary system within the same population classification. Said the Court, “the obvious problem is that all the magistrates involved are serving the same number of people, yet some are paid more than others.” *Id.* at 763. By contrast, in *State ex rel. Moody v. Gainer*, 377 S.E.2d 648, 180 W.Va. 514 (W. Va. 1988), the Supreme Court upheld another dispute regarding disparate magistrate pay, this time dealing with magistrate’s being paid differently in different counties based on population. The Supreme Court found that this distinction did not violate the equal protection clause because the disparate pay bore a rational basis to the government’s purpose in compensating magistrates for the work that they do, and that higher population counties require more from magistrates and therefore justify higher pay. *Id.* at 651.

The problem in the case at bar is that, although each bondsmen within the 23rd Judicial Circuit does the same job, serves the same population, and is endowed with the same authority, bondsmen who appear before Judge Faircloth must meet different, more stringent standards

before having their bonding authority renewed, and no reason has been given by the Circuit Court which would justify the differential treatment. Unlike in *Moody*, there is no possible rational distinction that could be applied between bondsmen in the 23rd Circuit which happen to appear before Judge Faircloth for bonding authority renewals and bondsmen in the 23rd Circuit which appear before other judges, and there is certainly no justification for John Orem being singled out for such treatment individually. As such, there is no rational basis for the disparate treatment and as such said testing violates the equal protection clause.

CONCLUSION

For all the reasons stated above, Petitioner respectfully requests that this Honorable Court GRANT Petitioner's Motion for Rehearing and REVERSE the findings of the Berkeley County Circuit Court.

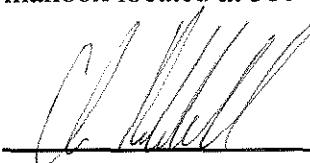
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CERTIFICATE OF SERVICE

I, Christian J. Riddell, Esq., attorney for the Petitioner, do swear that a true copy of this Petition was served upon the Honorable Laura V. Faircloth by placing the same in the Judges mailbox located at 380 West South Street, Martinsburg, WV 25401, this 11th day of June, 2020.



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Berkeley County Court Clerk
Regional Site

IN THE CIRCUIT COURT OF BERKELEY, JEFFERSON, AND MORGAN COUNTIES
OF WEST VIRGINIA

IN RE:

CIVIL ACTION NO.: 18-P-_____

JOHN OREM, authorized Agent for:
SPECIAL SERVICES BUREAU, INC. d/b/a
A REGIONAL BONDING CO.,

PETITIONER.

PETITION TO RENEW AUTHORITY TO ENGAGE IN
THE BONDING BUSINESS IN THE 23rd JUDICIAL CIRCUIT,
BERKELEY, JEFFERSON, AND MORGAN COUNTIES, WEST VIRGINIA

Now comes your Petitioner, Special Services Bureau, Inc., by counsel, J. Mark Sutton, pursuant to West Virginia code Chapter 51, Article 10, and, pursuant to the General Order of this Court governing Professional bondsmen, applies for an Order of renewal to engage in the bonding business in the 23rd Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia, and in support of said petition, Petitioner sets forth the following:

1. John W. Orem, as agent for Petitioner, whose address is 501 S. Raleigh Street, Martinsburg, West Virginia 25401, and business phone number is 304-267-8100.
2. Petitioner is of good moral character.
3. Petitioner, officer, stockholder, and any person who will be employed by Petitioner as an agent, clerk, or representative in the bonding business has no past or pending criminal charges.
4. Petitioner is currently engaged in the bonding Business as an agent for Special Services Bureau d/b/a Regional Bonding Company in 16th, 17th, 18th, 21st, 22nd, the 23rd Judicial Circuits of West Virginia.

5. Petitioner shall be solely financially responsible and hold and possess sufficient assets, real and personal, unencumbered by debt, for the maintenance and operation of a professional bonding business.

6. Specifically, the Petitioner shall hold and possess the following real estate owned by Orem, Inc. for the maintenance and operation of a professional bonding business:

- a. Residential rental building located at 762 Possum Hollow Trail, Gerrardstown, West Virginia, valued at approximately \$75,000.00;
- b. Residential rental building located at 209 & 209 1/2 West Martin Street, Martinsburg, West Virginia, valued at approximately \$125,000.00;
- c. Residential rental building located at 317 Porter Avenue, Martinsburg, West Virginia, valued at approximately \$100,000.00;
- d. Residential rental building located at 713 West King Street, Martinsburg, West Virginia, valued at approximately \$100,000.00;
- e. Residential rental building located at 511 West Stephen Street, Martinsburg, West Virginia \$75,000.00;
- f. Residential rental building located at 49 Fiesta Drive, Bunker Hill, West Virginia, valued at approximately \$150,000.00;

- g. Residential rental building located at 505 & 507 South Raleigh Street, Martinsburg, West Virginia, valued at approximately \$125,000.00; and
- h. Residential rental building located at 219 Hanshew Drive, Martinsburg, West Virginia, valued at approximately \$75,000.00.

7. Petitioner is not in default in payment of any forfeited bond in any Court in the state of West Virginia.

8. Petitioner seeks a per bond amount of \$500,000.00 and an aggregate limit amount of \$5,000,000.00 on all bonds to be in effect at any given time.

9. Petitioner represents that he has read and fully understands the provisions of West Virginia Code Chapter 51, Article 10, and the general orders of this Court relating to bondsmen, and affirms that he will abide by the terms and provisions set forth therein.

10. Petitioner's agent and/or representative employed by him will be as follows:

a. John Orem, age 50, residing at 1957 Harold Drive, Inwood, WV 25428;

b. Sher Orem, age 36, residing at 1957 Harold Drive, Inwood, West Virginia 25428; and

c. Tyler Lee Cates, age 43, residing at 760 Spruce Hill Way, Charles Town, West Virginia 25414.

11. Petitioner believes that John W. Orem, Sher Orem, and

Tyler Lee Cates to be of good moral character, and possessing no

criminal record and having no outstanding criminal charges against any of them; and further represents that the Petitioner and his proposed agents are currently qualified bail bondsman within their qualified jurisdictions.

12. That since the previous qualification the Petitioner and its bondsman have abided by the terms and provisions of the local rules and regulations and W.Va. Code § 51-10-1 et seq.

WHEREFORE, Petitioner requests that this Honorable Court renew the authorization to engage in the bonding business in criminal cases in the 23rd Judicial Circuit.

SPECIAL SERVICES BUREAU, INC.
By Counsel

/s/jmsutton
J. Mark Sutton, Esq.
Sutton & Janelle, PLLC
125 East King Street
Martinsburg, WV 25401
304-267-0904
WV Bar No. 7240

IN THE CIRCUIT COURT OF BERKELEY, JEFFERSON, AND MORGAN COUNTIES
OF WEST VIRGINIA

IN RE:

CIVIL ACTION NO.: 18-P-121

SPECIAL SERVICES BUREAU, INC. d/b/a
A REGIONAL BONDING CO.,

PETITIONER.

AMENDED

PETITION TO RENEW AUTHORITY TO ENGAGE IN
THE BONDING BUSINESS IN THE 23rd JUDICIAL CIRCUIT,
BERKELEY, JEFFERSON, AND MORGAN COUNTIES, WEST VIRGINIA

Now comes your Petitioner, Special Services Bureau, Inc., by counsel, J. Mark Sutton, pursuant to West Virginia code Chapter 51, Article 10, and, pursuant to the General Order of this Court governing Professional bondsmen, applies for an Order of renewal to engage in the bonding business in the 23rd Judicial Circuit, Berkeley, Jefferson, and Morgan Counties, West Virginia, and in support of said petition, Petitioner sets forth the following:

1. Sher Orem, as principal for Petitioner, Special Services Bureau, Inc., whose address is 501 S. Raleigh Street, Martinsburg, West Virginia 25401, and business phone number is 304-267-8100.
2. Petitioner is of good moral character.
3. Petitioner, officer, stockholder, and any person who will be employed by Petitioner as an agent, clerk, or representative in the bonding business has no past or pending criminal charges.
4. Petitioner is currently engaged in the bonding Business as an agent for Special Services Bureau d/b/a Regional Bonding Company in 16th, 17th, 18th, 21st, 22nd, the 23rd Judicial Circuits of West Virginia.

5. Petitioner shall be solely financially responsible and hold and possess sufficient assets, real and personal, unencumbered by debt, for the maintenance and operation of a professional bonding business.

6. Specifically, the Petitioner shall hold and possess the following real estate owned by Orem, Inc. for the maintenance and operation of a professional bonding business:

- a. Residential rental building located at 762 Possum Hollow Trail, Gerrardstown, West Virginia, valued at approximately \$75,000.00;
- b. Residential rental building located at 209 & 209 ½ West Martin Street, Martinsburg, West Virginia, valued at approximately \$125,000.00;
- c. Residential rental building located at 317 Porter Avenue, Martinsburg, West Virginia, valued at approximately \$100,000.00;
- d. Residential rental building located at 713 West King Street, Martinsburg, West Virginia, valued at approximately \$100,000.00;
- e. Residential rental building located at 511 West Stephen Street, Martinsburg, West Virginia \$75,000.00;
- f. Residential rental building located at 49 Fiesta Drive, Bunker Hill, West Virginia, valued at approximately \$150,000.00;

- g. Residential rental building located at 505 & 507 South Raleigh Street, Martinsburg, West Virginia, valued at approximately \$125,000.00; and
- h. Residential rental building located at 219 Hanshew Drive, Martinsburg, West Virginia, valued at approximately \$75,000.00.

7. Petitioner is not in default in payment of any forfeited bond in any Court in the state of West Virginia.

8. Petitioner seeks a per bond amount of \$500,000.00 and an aggregate limit amount of \$5,000,000.00 on all bonds to be in effect at any given time.

9. Petitioner represents that he has read and fully understands the provisions of West Virginia Code Chapter 51, Article 10, and the general orders of this Court relating to bondsmen, and affirms that he will abide by the terms and provisions set forth therein.

10. Petitioner's agent and/or representative employed by it will be as follows:

a. Sher Orem, age 36, residing at 1957 Harold Drive, Inwood, West Virginia 25428; and

b. Tyler Lee Cates, age 43, residing at 760 Spruce Hill Way, Charles Town, West Virginia 25414.

11. Petitioner believes that Sher Orem, and Tyler Lee Cates to be of good moral character, and possessing no criminal record (except traffic citations) and having no outstanding criminal charges against either of them; and further represents that the

Petitioner and his proposed agents are currently qualified bail bondsman within their qualified jurisdictions.

12. That since the previous qualification the Petitioner and its bondsman have abided by the terms and provisions of the local rules and regulations and W.Va. Code § 51-10-1 et seq.

WHEREFORE, Petitioner requests that this Honorable Court renew the authorization to engage in the bonding business in criminal cases in the 23rd Judicial Circuit.

SPECIAL SERVICES BUREAU, INC.

By Counsel

/s/jmsutton
J. Mark Sutton, Esq.
Sutton & Janelle, PLLC
125 East King Street
Martinsburg, WV 25401
304-267-0904
WV Bar No. 7240

STATE OF WEST VIRGINIA,
COUNTY OF BERKELEY, to-wit:

Sher Orem, as Principal for Special Services Bureau, Inc., the Petitioner named in the foregoing and annexed Petition, being first duly sworn, deposes and says that the facts and allegations therein contained are true and correct, except insofar as they are therein stated to be upon information and belief, and insofar as they are therein stated to be upon information and belief, she believes them to be true.

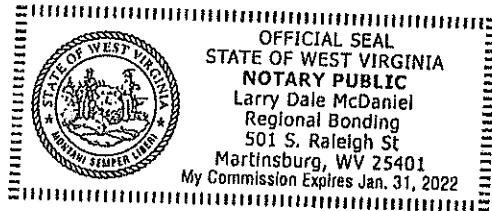
Sher Orem
SHER OREM as Principal for
Special Services Bureau, Inc.

Taken, subscribed and sworn to before me this 6 day of
November, 2018.

Larry Dale McDaniel 11-6-18
Notary Public

My commission expires:

1-31-22



AFFIDAVIT

STATE OF WEST VIRGINIA:
COUNTY OF BERKELEY, TO WIT:

Tyler Lee Parks, being duly sworn under oath deposes and says:

1. That I am 44 years of age, residing at 760 Spruce Hill Way Charles Town WV.
2. That Special Services Bureau, Inc. d/b/a Regional Bonding Co. has applied for authority to engage in the criminal bonding business for the 23rd Judicial Circuit of Berkeley, Morgan, and Jefferson Counties.
3. That Special Services Bureau, Inc. desires to hire me as its agent in the bonding business.
4. That I agree to abide by the terms and provisions as set forth in Chapter 51, Article 10 regarding professional bondsmen in criminal cases.
5. That since my previous qualifications to engage in the bonding business I have abided by the provisions of Chapter 51, Article 10 regarding professional bondsmen in criminal cases.

And further affiant sayeth naught.

Taken, sworn and subscribed before the undersigned authority this
5 day of November, 2018.

Tyler Lee Parks
SIGNATURE

Larry Dale McDaniel 11-5-18

NOTARY
(Seal)



OFFICIAL SEAL
STATE OF WEST VIRGINIA
NOTARY PUBLIC
Larry Dale McDaniel
Regional Bonding
501 S. Raleigh St
Martinsburg, WV 25401
My Commission Expires Jan. 31, 2022

MY COMMISSION EXPIRES:

1-31-22

AFFIDAVIT

STATE OF WEST VIRGINIA:
COUNTY OF BERKELEY, TO WIT:

Shel Orem, being duly sworn under oath deposes and says:

1. That I am 37 years of age, residing at 1957 Harold Dr Inwood WV 25128.

2. That Special Services Bureau, Inc. d/b/a Regional Bonding Co. has applied for authority to engage in the criminal bonding business for the 23rd Judicial Circuit of Berkeley, Morgan, and Jefferson Counties.

3. That Special Services Bureau, Inc. desires to hire me as its agent in the bonding business.

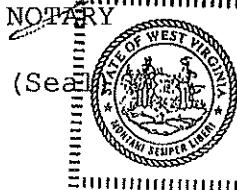
4. That I agree to abide by the terms and provisions as set forth in Chapter 51, Article 10 regarding professional bondsmen in criminal cases.

5. That since my previous qualifications to engage in the bonding business I have abided by the provisions of Chapter 51, Article 10 regarding professional bondsmen in criminal cases.

And further affiant sayeth naught.

Taken, sworn and subscribed before the undersigned authority this
6 day of November, 2018.

Shel Orem
SIGNATURE



NOTARY

OFFICIAL SEAL
STATE OF WEST VIRGINIA
NOTARY PUBLIC
Larry Dale McDaniel
Regional Bonding
501 S. Raleigh St
Martinsburg, WV 25401
My Commission Expires Jan. 31, 2022

MY COMMISSION EXPIRES: 1-31-22