

Professional Bail Agents of the U.S.™ (PBUS™) Certified Bail Agent™ Program – Course 2



THE PROFESSIONAL IMAGE

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Code of Ethics

A professional bail agent will strictly adhere to a code of ethics, whether it is his own or the one established by the Professional Bail Agents of the United States. No inducement, profit or instruction from clients, or any outside parties can ever justify departure from the principles established in a code of ethics. An agent must maintain a moral reputation within the community he/she serves and amongst the law enforcement and judicial systems.

Personal Appearance

First impressions are lasting. If the first impression a bail agent gives is a negative one, he/she will find it extremely difficult to overcome. Avoid flashy or gaudy apparel. Excess jewelry should also be avoided with an emphasis on promoting a business-like presence. When in a courtroom setting, men should be attired in a suit complete with clean shirt and tie (at the least, a sport coat and matching slacks). Women should wear an appropriate business suit or appropriate dress. Both should ensure their shoes are clean and shined. The key operative term is “dress for success.”

Demeanor and Attitude in the Courtroom

A bail agent consistently conducts him/herself in a professional manner. This is especially important in a courtroom setting in keeping with the dignity of the Court.

The Judge should always be addressed as “Your Honor.” It is not in your best interest to argue with the Court. If a Judge’s ruling is not beneficial to your cause, a bail agent should request permission of the Court to be heard. If a bail agent is denied permission to address the Judge, it is not advisable to display any disagreement and disrupt the peace of the Court; this will only serve to place an agent in disfavor and perhaps be cited for contempt. There are alternatives for a bail agent to engage if not allowed to speak in the courtroom. If permission is granted, a bail agent should present his/her facts in a precise, non-argumentative and non-judgmental manner.

Forfeitures

When a bail agent receives a forfeiture notice he/she must either find and produce the defendant or ultimately pay the amount of the forfeitures to the Court. Since bail bonding is a “specialized” type of insurance, the bail agent’s role and status cannot be justified if forfeitures are not paid promptly. Several states have cash deposit programs allowing a defendant to pay a percentage of the bail in cash directly to the court. If bail agents do not remit forfeitures when due other states could adopt the cash deposit program thereby effectively abolishing the role of that bail agent in the criminal justice system.

Bail agents are frequently advised by attorneys to file a series of pleadings or requests for jury trials to ward off forfeiture judgments. It is important for the bail agent to bear in mind that the attorney giving the advice may have his eye on the bail for the fee he/she will be sending to you. Attorneys most often are of the attitude that they have little to gain by any enhanced reputation of a bail agent, as they are often competing for the same dollars.

Clients

A bail agent’s clients are ones who have been charged with an illegal activity. This does not however, circumvent the client’s right to be treated with respect. Once a fee has changed hands, the bail agent’s client deserves professional courtesy at all times.

A client’s family members and friends can cause as many headaches for a bail agent as the client can. Once the bail agent suggests a simple, precise, no-nonsense explanation of the bail procedure to the client, that will usually suffice to maintain a professional relationship with the client and his/her affiliates. This approach advises the client thoroughly and will often induce assistance from the client’s family and friends to adhere to all conditions of release.

Another consideration is the client’s attorney, as he/she can be your friend or adversary. Many attorneys resent bail agents because they feel that the money paid for bail would best be served applied to the defendant’s bill. In this scenario it is advisable for the bail agent to suggest to the client they secure private counsel in an effort to have the bail amount reduced. Although this would lower the bail agent’s premium, the good faith of that attorney will be well worth the investment. When an attorney realizes that you are a bail agent who maintains and practices a fair business ethics, he/she will relay it to colleagues. Additionally, a reasonable amount of information exchanged can serve to ensure a safer bail being executed. The communication between a defendant’s bail agent and an attorney will serve to encourage the client to appear in court.

Colleagues

With a few exceptions, bail agents will undoubtedly have competitors. Despite the conduct of one bail agent over another, a professional bail agent should at all times be civil and professional. Bail agents should take the time to collaborate with system stakeholders and other professional bail agents regarding legislation, recovery techniques, changes within the court system or any matters related to the bail bond industry. All unethical practices within the bail bond industry should be reported to the applicable department or agency that investigates and sanctions those involved.

Public Relations

Bail agents and their associates are the focus of their profession. By projecting a positive image, the esteem of the public and of the judicial system they serve will be maintained. A bail agent's public relations goals should include an emphasis on his/her position as one that bridges the gap between the police, the public and the court system. Bail agents are the only ones who guarantee their performance. The benefits to the public include a guarantee that the defendant will appear in court to answer to the charges; reduce jail overcrowding; less cost to the taxpayer; and lower failure to appear and recidivism rates. A person's Constitutional right to bail is to be encouraged on all levels.

Organizations for bail agents, such as PBUS and many state associations, have personnel trained in public relations to assist you. When questioned, bail agents should seize the opportunity to stress how important the bail process is within the criminal justice system and to persons charged with committing a crime. It is within keeping with a bail agent's professionalism to refer anyone to PBUS or state associations for additional information regarding the benefits the industry provides. A positive public relations program will offer an informed image of the profession.

PROFESSIONAL BAIL AGENTS OF THE UNITED STATES CODE OF ETHICS

Preamble

It is understood that under the laws of this land, a person accused of a criminal offense is entitled to a presumption of innocence until the adjudication of the crimes charged. A natural consequence of this presumption is the Constitutional guarantee of reasonable bail pending trial, a concept that has been universally affirmed by the courts of this great union.

The professional bail agent is the main instrument through which the right to freedom before trial is practically applied in this nation. Such a function imposes obligations beyond those of ordinary private enterprise. It imposes great social responsibility to which the bail agent should decide for him/herself and for which the bail agent should be diligent in preparing for. The bail agent, therefore, must be zealous to maintain and improve the standards of his or her calling, and shares with fellow bail agents a common responsibility for the integrity and honor of the bail profession.

Accepting the preceding as a true and correct statement of circumstance, every bail agent pledges to conduct his or her business in accordance with the following Code of Ethics:

CODE OF ETHICS

Section 1

Relations with the Client

Article 1.

In justice to those who place their faith, confidence, interests in the bail agent, such agent should endeavor to constantly be informed of current laws, proposed legislation, governmental orders or regulations and other significant information and public policies which may affect the interests of the client.

Article 2.

The bail agent should make a constant practice of full and complete disclosure to all parties, be they principal or indemnitor, of any and all possible liabilities, penalties, or detriments, which may arise from their involvement in that particular undertaking which secures the release from custody of a person who is charged with a criminal offense.

Article 3.

The bail agent should not, prior to forfeiture or breach, arrest or surrender any principal and thereby terminate his release from governmental custody unless the bail agent can materially show good cause for such action. Such good cause should reasonably take the form of judicial action, information concealed, or misrepresented or the renunciation of an indemnitor or the principal any of which may be considered material to the risk assumed by the bail agent.

Article 4.

The bail agent, upon receipt of notice of forfeiture or breach where notice is required or personal knowledge of forfeiture or breach, should promptly and formally notify any and all indemnitors and real parties of interest of the forfeiture or breach by the principal. The bail agent should concisely state the liability thereby incurred or pending at the time.

Article 5.

The bail agent should supply all indemnitors to an undertaking with a true copy of any document representing a binding legal contract to which he or she is to be or is being committed.

Article 6.

When an examination of the material factors of a potential undertaking reasonably convinces a bail agent that he or she will be unable to undertake that particular bail relationship, the bail agent should immediately inform all involved parties that he or she will not be able to secure the release of the defendant so that the defendant or his or her affiliates may promptly seek his or her release by another means.

Article 7.

Every bail agent should comply in full with the laws and regulations governing the transaction of bail in his or her state. Such compliance must necessarily include those matters dealing with the trust and fiduciary relationship as it relates to monies and properties, which may secure an undertaking. The highest moral and ethical practice should be maintained when entering into a trust or fiduciary relationship.

Section 2

Relations with the General Public

Article 8.

The bail agent should keep themselves informed as to movements affecting the criminal justice system in his or her community, state and the nation so that he or she may be able to constructively contribute to public thinking in matters of legislation, expenditures, public safety and other questions dealing with the welfare of the general public. The bail agent shall strive to find more effective means of fighting crime.

Article 9

It is the paramount duty of the bail agent to protect the general public against misrepresentations or unethical business practices in the bail industry. He or she should endeavor to eliminate in their community any practices, which could be damaging to the public or to the dignity and integrity of the bail industry. The bail agent should assist any regulatory agency or business practices review board charged with regulating the practices of the members of the bail industry.

Article 10.

The bail agent should not, except as provided by law, engage in activities that constitute the practice of law and should refrain from making comments and representations which may lead the public to believe that the bail agent is practicing law.

Section 3

Relations with the Government Sector

Article 11.

The bail agent, with due regard for the special position of responsibility and trust that this profession places on them, should assist and cooperate with the judiciary, law enforcement agencies and public prosecutors in the orderly administration of justice, so long as such assistance or cooperation does not compromise the honesty and integrity of the bail agent or the public officer.

Article 12.

Unless compelled to do so by law or by court order, the bail agent should not divulge or disclose to any person or agency personal information regarding the principal or indemnitor of any undertaking, which has not been forfeited or breached. The inherent right to privacy of the individual and the position of trust of the bail agent demand compliance with this concept.

Article 13.

The bail agent should make great efforts to verify and confirm any information, which he or she may give to a court, law enforcement agency, or any other public agency. Failure to do so, or an intentional misrepresentation of a fact to any one of the entities, must be construed as a breach of the fundamental relationship of trust between the bail agent and the governmental sector.

Section 4

Relations with Fellow Bail Agents

Article 14.

The bail agent shall not conspire with other bail agent to regulate rates or restrict trade within the bail profession.

Article 15.

The bail agent should so conduct his or her business as to avoid controversies and conflicts with her or her fellow bail agent and should not voluntarily disparage the business practice of a competitor or volunteer an opinion of a competitor's transaction. If his or her opinion is sought, it should be rendered with strict professional integrity and courtesy.

Article 16.

The bail agent should seek no unfair advantage over his or her fellow bail agent and should willingly share with them the lessons of his or her experience and study. The bail agent should also inform his or her fellow bail agent of established hazards involving a prospective client if such hazards exist.

Article 17.

If a bail agent is charged with unethical business practices by a government regulatory agency or by a grievance committee comprised of his or her peers, the bail agent should place all pertinent facts and rebuttal before the accusatory body promptly and voluntarily for investigation and judgment.

Article 18.

The Bail Agent should constantly strive for the highest degree of attainable professionalism. This should be expected and demanded from all bail agents and by all those persons involved in the bonding industry, regardless of position.

Article 19.

The bail agent should make extensive effort to support, contribute to, and participate in local, statewide and national bail agent associations whose goals are to preserve and enhance the integrity, quality and honor of the bonding industry.

CONCLUDING SANCTION

THE PROFESSIONAL BAIL AGENTS OF THE UNITED STATES' BYLAWS

**ARTICLE I
NAME AND LOCATION**

Section 1. Name

The name of the Association is the Professional Bail Agents of the United States, hereafter referred to as the "Association" and commonly referred as "PBUS."

Section 2. Location

The principal office and location of the Association shall be at the office of the Executive Director or, in the absence of an Executive Directors, at an address established by the Association's Board of Directors.

**ARTICLE II
OBJECT AND PURPOSE**

The object and purpose of this Association is to promote free enterprise bail and protect the interest and honor of the bail profession and to promote, upgrade, and perpetuate the bail bond profession through the following objectives:

1. Promoting legislation and rules, which will advance the profession.
2. Combating legislation and rules, which may harm the profession.
3. Promoting and maintaining professional and ethical standards for the profession.
4. Improving relations between the industry and the legal community - attorneys, judges, clerks and sheriffs, and the general public, both locally and nationally.