



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

ANTONE M. ALLEN,

Renewal Applicant.

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Case No. 140715553C

ORDER REFUSING TO RENEW MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On January 27, 2015, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to renew the motor vehicle extended service contract producer license of Antone M. Allen. After reviewing the Petition, the Investigative Report, and the entirety of the file, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Antone M. Allen ("Allen") is a Missouri resident with a residential and mailing address of 5769 Theodore Ave., Apt. 1E, St. Louis, Missouri, 63120.¹
2. On December 5, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Allen's Application for Motor Vehicle Extended Service Contract Producer License (the "2011 Application").
3. The "Applicant's Certification and Attestation" section of the Application, states, in relevant part:
 1. I hereby certify, under penalty of perjury, that all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.
4. Allen signed the 2011 Application in the "Applicant's Certification and Attestation" section under oath before a notary.

¹ Allen provided this residential and mailing address in his most recent application (see Paragraph 9 of this Petition), although Allen spelled the street as "Theodore."

5. Background Question No. 4 of the 2011 Application asked the following:
- Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?
- If you answer yes, identify the jurisdiction(s): _____
6. Allen answered “No” to Background Question No. 4 of the 2011 Application.
7. Allen did not disclose any delinquent tax obligation in his 2011 Application.
8. Contrary to Allen’s “No” answer to Background Question No. 4 of the 2011 Application, Allen owed delinquent tax obligations, of which he had been notified:
- a. On October 24, 2011, the St. Louis Circuit Court entered a judgment against Allen for \$1,241.46 in favor of the Department of Revenue. The Director of the Missouri Department of Revenue filed, pursuant to § 143.902, RSMo, a Certificate of Tax Lien – Individual Income Tax certifying that Allen owed \$952.32 in delinquent taxes from tax year 2009. The judgment remains unsatisfied.²
9. Relying on Allen’s “No” answer to Background Question No. 4 of the 2011 Application, the Director issued Allen an individual motor vehicle extended service contract (“MVESC”) producer license on January 1, 2012. That license expired on January 1, 2014.
10. On December 10, 2013, the Department received Allen’s Application for Motor Vehicle Extended Service Contract Producer License Renewal (“2013 Application”).
11. By signing the 2013 Application under oath and before a notary, Allen attested and certified that “all of the information submitted in this application and attachments is true and complete.”
12. Background Question No. 4 of the 2013 Application asked:
- Have you failed to pay state or federal income tax, which has not been previously reported to this insurance department?
- Have you failed to comply with an administrative or court order directing payment of state or federal income tax, which has not been previously reported to this insurance department?
- Answer “Yes” if the answer to either question (or both) is “Yes.”

² *Department of Revenue v. Antone M. Allen*, St. Louis Co. Cir. Ct., No. 11SL-MC13668.

If you answer yes, you must attach to this application:

- a) a written statement explaining the circumstances of each administrative or court order,
- b) copies of all relevant documents (i.e. demand letter from the Department of Revenue or Internal Revenue Service, etc.),
- c) a certified copy of each administrative or court order, judgment, and/or lien, and
- d) a certified copy of the official document which demonstrates the resolution of the tax delinquency (i.e. tax compliance letter, etc.).

13. Allen falsely answered "No" to Background Question No. 4 of the 2013 Application.
14. On December 24, 2013, Consumer Affairs Division Special Investigator Andrew Engler ("Engler") mailed an inquiry letter to Allen requesting information on the status of Allen's tax lien and evidence of any repayment arrangement and repayment history.
15. Engler mailed the December 24, 2013 letter by first class mail to Allen's residential and mailing address,³ with sufficient postage attached.
16. The December 24, 2013 letter was not returned as undeliverable and is therefore presumed received by Allen.
17. Allen never responded to the December 24, 2013 letter nor demonstrated any justification for his delay or failure to respond.
18. On February 10, 2014, Engler mailed a second inquiry letter to Allen, again requesting information on the status of Allen's tax lien and evidence of any repayment arrangement and repayment history.
19. Engler mailed the February 10, 2014 letter by first class mail to Allen's residential and mailing address,⁴ with sufficient postage attached.
20. The February 10, 2014 letter was not returned as undeliverable and is therefore presumed received by Allen.
21. Allen never responded to the February 10, 2014 letter nor demonstrated any justification for his delay or failure to respond.
22. It is inferable, and hereby found as fact, that Allen falsely answered "No" to Background Question No. 4 of the 2011 Application and failed to disclose his delinquent tax obligation in his 2011 Application in order to misrepresent to the Director that he had no

³ Engler addressed both this letter and the February 10, 2014 letter to Allen at "5769 Theadore" in St. Louis, following the spelling given by Allen in his 2013 Application. Neither of the letters was returned.

⁴ See, *supra*, footnote 3.

delinquent tax obligations, and, accordingly, in order to improve the chances that the Director would approve his 2011 Application and issue him an MVESC producer license.

23. It is inferable, and hereby found as fact, that Allen falsely answered "No" to Background Question No. 4 of the 2013 Application and failed to disclose his delinquent tax obligation in his 2013 Application in order to misrepresent to the Director that he had no delinquent tax obligations, and, accordingly, in order to improve the chances that the Director would approve his 2013 Application and renew his MVESC producer license.

CONCLUSIONS OF LAW

24. Section 385.209 RSMo (Supp. 2014),⁵ provides, in part:

1. The director may suspend, revoke, refuse to issue, or refuse to renew a registration or license under sections 385.200 to 385.220 for any of the following causes, if the applicant or licensee or the applicant's or licensee's subsidiaries or affiliated entities acting on behalf of the applicant or licensee in connection with the applicant's or licensee's motor vehicle extended service contract program has:

(1) Filed an application for license in this state within the previous ten years, which, as of the effective date of the license, was incomplete in any material respect or contained incorrect, misleading, or untrue information;

(2) Violated any provision in sections 385.200 to 385.220, or violated any rule, subpoena, or order of the director;

(3) Obtained or attempted to obtain a license through material misrepresentation or fraud; [or]

* * *

(13) Failed to comply with any administrative or court order directing payment of state or federal income tax[.]

25. Title 20 CSR 100-4.100(2)(A) states:

(A) Upon receipt of any inquiry from the division, every person shall mail to the division an adequate response to the inquiry within twenty (20) days from the date the division mails the inquiry. An envelope's postmark shall determine the date of mailing. When the

⁵ All statutory references are to the Revised Statutes of Missouri, as supplemented in 2014 unless otherwise indicated.

requested response is not produced by the person within twenty (20) days, this nonproduction shall be deemed a violation of this rule, unless the person can demonstrate that there is reasonable justification for that delay.

26. Just as the principal purpose of § 375.141, the insurance producer disciplinary statute, is not to punish licensees or applicants, but to protect the public, *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984), the purpose of § 385.209 is not to punish applicants for a motor vehicle extended service contract producer license, but to protect the public.
27. "There is a presumption that a letter duly mailed has been received by the addressee." *Clear v. Missouri Coordinating Bd. for Higher Educ.*, 23 S.W. 3d 896, 900 (Mo. App. 2000) (internal citations omitted).
28. The Director may refuse to renew Allen's MVESC producer license under § 385.209.1(1) because Allen filed an application for license in this state within the previous ten years, which, as of the effective date of the license, was incomplete in a material respect or contained incorrect, misleading, or untrue information. Allen falsely answered "No" to Background Question No. 4 of the 2011 Application, which constituted incorrect, misleading and untrue information. Allen failed to disclose his delinquent tax obligation in his 2011 Application, which rendered the 2011 Application incomplete in a material respect.
29. The Director may refuse to renew Allen's MVESC producer license under § 385.209.1(3) because Allen obtained a license through material misrepresentation or fraud. Allen falsely answered "No" to Background Question No. 4 of the 2011 Application and failed to disclose his delinquent tax obligation in the 2011 Application, in order to misrepresent to the Director that he had no delinquent tax obligations, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.
30. The Director may refuse to renew Allen's MVESC producer license under § 385.209.1(3) because Allen attempted to obtain a license through material misrepresentation or fraud. Allen falsely answered "No" to Background Question No. 4 of the 2013 Application and failed to disclose his delinquent tax obligation in the 2013 Application, in order to misrepresent to the Director that he had no delinquent tax obligations, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.
31. Each violation of § 385.209.1(3) is a separate and sufficient cause to refuse to renew Allen's license.
32. The Director may refuse to renew Allen's MVESC producer license under § 385.209.1(2) because Allen twice violated a rule of the Director, namely, 20 CSR 100-

4.100(2). Allen failed to respond to two written inquiries from the Consumer Affairs Division and failed to demonstrate reasonable justification for the delay.

33. Each violation of 20 CSR 100-4.100(2) is a separate and sufficient cause to refuse to renew Allen's license.
34. The Director may refuse to renew Allen's MVESC producer license under § 385.209.1(13) because Allen failed to comply with an administrative or court order directing payment of state income tax. The tax judgment entered against Allen remains unsatisfied. *Department of Revenue v. Antone M. Allen*, St. Louis Co. Cir. Ct., No. 11SL-MC13668.
35. The Director has considered Allen's history and all of the circumstances surrounding his 2013 Application. Renewing Allen's MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to renew Allen's MVESC producer license.
36. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that renewal of the motor vehicle extended service contract producer license application of Antone M. Allen, is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 29th DAY OF JANUARY, 2015.


JOHN M. HUFF
DIRECTOR



NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

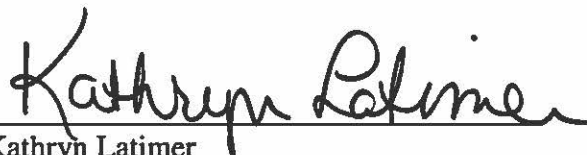
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send your complaint by registered or certified mail, it will not be considered filed until the Administrative Hearing Commission receives it.

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of January, 2015 a copy of the foregoing Order and Notice was served upon the Applicant by UPS, signature required, at the following address:

Antone M. Allen
5769 Theodore Ave.
Apt. 1E
St. Louis, Missouri, 63120

No. 1Z0R15W84290486160

A handwritten signature in black ink, reading "Kathryn Latimer". The signature is written in a cursive style with a horizontal line underneath the name.

Kathryn Latimer
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