



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:)
)
CAMERON T. GIBSON,) Case No. 140715551C
)
Applicant.)

ORDER REFUSING TO RENEW MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On August 14, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to renew Cameron T. Gibson's Motor Vehicle Extended Service Contract Producer License. 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. Cameron T. Gibson ("Gibson") is a Missouri resident with a residential address of 5927 Suson Park Pl. Apt. C, St. Louis, Missouri 63128.
2. On April 18, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Gibson's initial Application for Motor Vehicle Extended Service Contract Producer License ("2012 Application").
3. The "Applicant's Certification and Attestation" section of the 2012 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. Gibson signed the 2012 Application in the "Applicant's Certification and Attestation" section and dated his signature "4-9-12." Gibson signed the 2012 Application under

oath and before a notary public.

5. Background Question No. 1 of the 2012 Application asks the following, in relevant part:

Have you ever been convicted of a crime, had a judgement withheld or deferred, or are you currently charged with committing a crime?

“Crime” includes a misdemeanor, felony or a military offense. You may exclude misdemeanor traffic citations or convictions involving driving under the influence (DUI) or driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license and juvenile offenses. “Convicted” includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere, or having been given probation, a suspended sentence or a fine.

“Had a judgement withheld or deferred” includes circumstances in which a guilty plea was entered and/or a finding of guilt was made, but imposition or execution of the sentence was suspended (for instance, the defendant was given a suspended imposition of sentence or a suspended execution of sentence – sometimes called an “SIS” or “SES”).

6. Gibson marked “No” to Background Question No. 1 on his 2012 Application.
7. Relying on Gibson’s representation on his 2012 Application, the Department issued a Motor Vehicle Extended Service Contract (“MVESC”) producer license (License No. 8144164) to Gibson on April 20, 2012. Said license expired on April 20, 2014.
8. On December 11, 2013, the Department received Gibson’s Application for Motor Vehicle Extended Service Contract Producer License Renewal (“2013 Application”).
9. The “Applicant’s Certification and Attestation” section of the 2013 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.
10. Gibson signed the 2013 Application in the “Applicant’s Certification and Attestation” section and dated his signature “12-4-13.” Gibson signed the 2013 Application under

oath and before a notary public.

11. Background Question No. 1 of the 2013 Application asks the following, in relevant part:

Have you ever been convicted of a crime, had a judgment withheld or deferred, received a suspended imposition of sentence ("SIS") or suspended execution of sentence ("SES"), or are you currently charged with committing a crime, which has not been previously reported to this insurance department?

"Crime" includes a misdemeanor, felony, or a military offense. You may exclude any of the following if they are/were misdemeanor traffic citations or misdemeanors: driving under the influence (DUI), driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license. You may also exclude misdemeanor juvenile conviction.

"Convicted" includes, but is not limited to, have been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere, having entered an Alford Plea, or having been given probation, a suspended sentence, or a fine.

"Had a judgment withheld or deferred" includes circumstances in which a guilty plea was entered and/or a finding of guilt was made, but imposition or execution of the sentence was suspended (for instance, the defendant was given a suspended imposition of sentence or a suspended execution of sentence – sometimes called an "SIS" or "SES").

Unless excluded by the language above, you must disclose convictions that have been expunged.

12. Gibson marked "No" to Background Question No. 1 on his 2013 Application.
13. Contrary to Gibson's "No" answer to Background Question No. 1 on his 2012 Application and 2013 Application, the Consumer Affairs Division's ("Division") investigation of Gibson's Applications revealed the following misdemeanor conviction and suspended sentences:
 - a. On July 7, 2007, Gibson was charged with Purchase/Attempt To Purchase or Possession of Liquor by Minor – 1st Offense, a Class A Misdemeanor, in violation of § 311.325 RSMo. On March 26, 2008, Gibson pled guilty. The court fined Gibson in the amount of \$150.00. *State v. Cameron T. Gibson*, Jefferson Co. Cir. Ct., Case No. 07JE-CR04026;

- b. On July 20, 2012 Gibson was charged with Possession Of Up To 35 Grams of Marijuana, a Class A Misdemeanor, in violation of § 195.202 RSMo. On June 27, 2013, Gibson pled guilty. The court suspended the imposition of sentence and placed Gibson on two (2) years' supervised probation. *State v. Cameron T. Gibson*, Wayne Co. Cir. Ct., Case No. 12WY-CR00652; and
- c. On July 20, 2012, Gibson was charged with Unlawful Use of Drug Paraphernalia, a Class A Misdemeanor, in violation § 195.223 RSMo. On June 27, 2013, Gibson pled guilty. The court suspended the imposition of sentence and placed Gibson on two (2) years' supervised probation. *State v. Cameron T. Gibson*, Wayne Co. Cir. Ct., Case No. 12WY-CR00653.
14. On May 6, 2014, Special Investigator Andrew Engler ("Engler"), with the Division, mailed an inquiry letter to Gibson. The inquiry letter requested documentation and additional information surrounding the marijuana and drug paraphernalia criminal charges. Engler warned Gibson that a failure to respond by May 26, 2014 could result in refusal of his application for a MVESC producer license.
15. The May 6, 2014 inquiry letter was not returned as undeliverable, and therefore is presumed received by Gibson.
16. Gibson never responded to the May 6, 2014 inquiry letter and has not demonstrated a reasonable justification for his failure to respond.
17. On May 27, 2014, Engler mailed a second inquiry letter to Gibson. The letter requested substantially the same information as previously requested and a response by June 16, 2014. Again, the inquiry letter warned Gibson that failure to respond could result in refusal of his application for a MVESC producer license.
18. The May 27, 2014 inquiry letter was not returned as undeliverable, and therefore is presumed received by Gibson.
19. Gibson never responded to the May 27, 2014 inquiry letter and has not demonstrated a reasonable justification for his failure to respond.

CONCLUSIONS OF LAW

20. Section 385.209 RSMo (Supp. 2013)¹ 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

¹ All statutory references are to the RSMo (2000) as updated by the 2013 Supplement, unless otherwise indicated.

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[.]

21. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries by the Consumer Affairs Division, provides:

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 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.

22. "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).
23. 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 MVESC producer license, but to protect the public.
24. The Director may refuse to renew Gibson's MVESC producer license pursuant to § 385.209.1(1) because Gibson's 2012 Application contained incorrect and misleading information in that Gibson failed to disclose the following misdemeanor conviction in response to Background Question No. 1:
- a. *State v. Cameron T. Gibson*, Jefferson Co. Cir. Ct., Case No. 07JE-CR04026 (Purchase/Attempt To Purchase or Possession of Liquor by Minor – 1st Offense, a Class A Misdemeanor, in violation of § 311.325 RSMo).

25. The Director may refuse to renew Gibson's MVESC producer license pursuant to § 385.209.1(2) because Gibson failed to adequately respond to two inquiry letters from the Division and failed to provide a reasonable justification for the delay, thereby violating 20 CSR 100-4.100(2)(A), a Department regulation.
26. Each failure to provide an adequate response to the Division or failure to provide a reasonable justification for the delay is a separate and sufficient cause for refusal pursuant to § 385.209.1(2).
27. The Director may refuse to renew Gibson's MVESC producer license pursuant to § 385.209.1(3) because he attempted to obtain a license through material misrepresentation or fraud when he failed to disclose the following misdemeanor conviction and suspended sentences in response to Background Question No. 1 on his 2013 Application:
 - a. *State v. Cameron T. Gibson*, Jefferson Co. Cir. Ct., Case No. 07JE-CR04026 (Purchase/Attempt To Purchase or Possession of Liquor by Minor – 1st Offense, a Class A Misdemeanor, in violation of § 311.325 RSMo);
 - b. *State v. Cameron T. Gibson*, Wayne Co. Cir. Ct., Case No. 12WY-CR00652 (Possession Of Up To 35 Grams of Marijuana, a Class A Misdemeanor, in violation of § 195.202 RSMo); and
 - c. *State v. Cameron T. Gibson*, Wayne Co. Cir. Ct., Case No. 12WY-CR00653 (Unlawful Use of Drug Paraphernalia, a Class A Misdemeanor, in violation § 195.223 RSMo).
28. Each failure to disclose is a separate and sufficient cause for refusal pursuant to § 385.209.1(3).
29. It is inferable, and is hereby found as fact, that Gibson failed to disclose his criminal conviction on his 2012 Application to misrepresent to the Director that he had no criminal history, and, accordingly, in order to convince the Director to approve his 2012 Application and issue him a MVESC producer license.
30. It is also inferable, and is hereby found as fact, that Gibson failed to disclose his criminal conviction and suspended sentences on his 2013 Application in order to misrepresent to the Director that he had no criminal history, and, accordingly, in order to improve the chances that the Director would approve his 2013 Application and renew his MVESC producer license.

31. The above described instances are grounds upon which the Director may refuse to renew Gibson's MVESC producer license. Renewing Gibson's MVESC producer license would not be in the interest of the public. The Director has considered Gibson's history and all of the circumstances surrounding Gibson's Application and exercises his discretion to refuse to renew Gibson's MVESC producer license.
32. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the Motor Vehicle Extended Service Producer License Renewal Application of **Cameron T. Gibson** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 20th DAY OF AUGUST, 2014.




JOHN M. HUFF
DIRECTOR

NOTICE

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

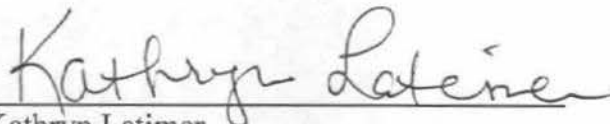
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 21st day of August, 2014 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Cameron T. Gibson
5927 Suson Park Pl. Apt. C
St. Louis, Missouri 63128

Tracking No. 1Z0R15W84291763199



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