



State of Missouri
DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:)
)
 GREG FILIPPO,) **Case No. 141231842C**
)
 Applicant.)

ORDER REFUSING TO ISSUE
MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On January 28, 2015, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse the motor vehicle extended service contract producer license application of Greg Filippo. After reviewing the Petition, 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. Applicant Greg Filippo ("Filippo") is a Florida resident with a residential and mailing address of record of 5824 NW 39th Ave., Boca Raton, FL 33496.
2. The Missouri Department of Insurance, Financial Institutions and Professional Registration ("Department") has never issued to Filippo a motor vehicle extended service contract ("MVESC") producer license.
3. On January 10, 2012, the Internal Revenue Service filed a Notice of Federal Tax Lien in Palm Beach County, Florida Circuit Court for \$115,148.70 of unpaid federal income tax liabilities related to Filippo's filing periods 2008, 2009, and 2010.
4. On January 19, 2012, the Internal Revenue Service filed a Notice of Federal Tax Lien in Palm Beach County, Florida Circuit Court for \$1,500.46 of unpaid federal income tax liabilities related to Filippo's filing period 2007.
5. On May 7, 2012, Filippo pled no contest to the charge of Assaulting a Law Enforcement Officer, a Misdemeanor of the First Degree, in violation of FLA. STAT. §§ 784.07(2)(a) and 784.011,¹ and was ordered to pay fines and costs in the amount of \$625.00. *Florida v. Greg Filippo*, Broward Co. Ct., Case No. 10004812MM10A.

¹ All criminal statutory references are to the version of the Florida Statutes pursuant to which the judgment was rendered.

6. On July 24, 2014, Michael Shaftel, an officer or director of N.C.W.C., Inc., a Florida corporation ("Shaftel"), contacted the Consumer Affairs Division of the Department ("Division") and advised that an employee had sold twenty-three motor vehicle extended service contracts to Missouri consumers without being licensed by the Department.
7. On August 26, 2014, Shaftel confirmed that the unlicensed employee was Filippo.
8. On September 9, 2014, the Department received Filippo's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
9. Filippo answered "No" to Background Information question 36.1 of the Application which asked, 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?

* * *

"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, having entered an Alford Plea, or having been given probation, a suspended sentence, or a fine.

10. Filippo answered "No" to Background Information question 36.4 of the Application which asked, in relevant part: "Have you failed to pay state or federal income tax?"
11. The Applicant's Certification and Attestation section of the Application, which Filippo accepted by his notarized signature, provides:

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.

12. On September 12, 2014, Andrew Engler, a Special Investigator with the Division ("Special Investigator Engler"), mailed Filippo an inquiry letter ("first inquiry letter") by first-class mail, postage prepaid, requesting information and documentation about Filippo's criminal case and advising Filippo that "[p]ursuant to 20 CSR 100-4.100, your response is due twenty days from the postmark of this letter, or on or before October 2, 2014. Failure to respond could result in a refusal to issue your MVESC license."

13. The first inquiry letter was not returned to the Division as undeliverable; therefore, Filippo is presumed to have received it.
14. The Division received no communication from Filippo with regard to the first inquiry letter on or before October 2, 2014, nor did he demonstrate a reasonable justification for the delay.
15. On October 2, 2014, Special Investigator Engler mailed Filippo another inquiry letter by first-class mail, postage prepaid, requesting substantially the same information and documentation as the first inquiry letter ("second inquiry letter"). The second inquiry letter further advised Filippo that his response was due by October 22, 2014 and that failure to respond could result in a refusal to issue Filippo a MVESC producer license.
16. The second inquiry letter was not returned to the Division as undeliverable; therefore, Filippo is presumed to have received it.
17. The Division received no communication from Filippo with regard to the second inquiry letter, nor did he demonstrate a reasonable justification for the delay.
18. It is inferable, and hereby found as fact, that Filippo's answers to Background Information questions 36.1 and 36.4 of the Application were negative in order to misrepresent to the Director that he had no criminal or tax noncompliance history and, accordingly, to improve the chance that the Director would act favorably on his Application and issue Filippo a MVESC producer license.

CONCLUSIONS OF LAW

19. Section 385.207.3, RSMo (Supp. 2014)² provides, in relevant part:

An individual, prior to selling, offering, negotiating, or soliciting a motor vehicle extended service contract with a consumer ... shall apply for and obtain licensure with the director as an individual producer[.]

20. Section 385.209.1 provides, in relevant part:

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:

* * *

² All civil statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2014 RSMo Supplement, unless otherwise noted.

(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;

* * *

(11) Unlawfully acted as a producer without a license; [or]

* * *

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

21. Title 20 CSR 100-4.100(2)(A) 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. E.D. 2000) (internal citation 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 MVESC producer licensure, but to protect the public.

24. The Director may refuse to issue a MVESC producer license to Filippo pursuant to § 385.209.1(2) because Filippo violated a rule of the Director, specifically 20 CSR 100-4.100(2)(A), when he failed to mail timely and adequate responses to two inquiry letters and failed to demonstrate reasonable justification for the delays.

25. The Director may refuse to issue a MVESC producer license to Filippo pursuant to § 385.209.1(3) because Filippo attempted to obtain a MVESC producer license through material misrepresentation or fraud by his false answer to Background Information question 36.1 of his Application, claiming that he had no criminal history.

26. The Director may refuse to issue a MVESC producer license to Filippo pursuant to § 385.209.1(3) because Filippo attempted to obtain a MVESC producer license through

material misrepresentation or fraud by his false answer to Background Information question 36.4 of his Application, claiming that he had not failed to pay federal income tax.

27. Each of Filippo's false answers to a Background Information question on the Application constitutes a separate and sufficient cause for the Director to refuse to issue a MVESC producer license to Filippo pursuant to § 385.209.1(3).
28. The Director may refuse to issue a MVESC producer license to Filippo pursuant to § 385.209.1(11) because Filippo acted as a MVESC producer without a license when he sold twenty-three motor vehicle extended service contracts to Missouri consumers without being licensed by the Department.
29. The Director may refuse to issue a MVESC producer license to Filippo pursuant to § 385.209.1(13) because Filippo has failed to comply with administrative or court orders directing payment of federal income tax, as evinced by two Notices of Federal Tax Lien filed in Filippo's home county of Palm Beach, Florida.
30. The Director has considered Filippo's history and all of the circumstances surrounding Filippo's Application. Issuing a MVESC producer license to Filippo would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a MVESC producer license to Filippo.
31. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Greg Filippo** 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 in this matter by UPS, signature required service, at the following address:

Greg Filippo
5824 Northwest 39th Avenue
Boca Raton, Florida 33496-2740

No. 1Z0R15W84293066779



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