



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

JESSICA GODINEZ,

Applicant.

)
)
)
)
)

Case No. 161110485C

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On December 6, 2016, the Consumer Affairs Division, through counsel, submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract producer license to Jessica Godinez. 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. Jessica Godinez ("Godinez") is a Missouri resident with a residential address of 4754 Maffitt Ave., St. Louis, Missouri 63113.
2. On August 22, 2016, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Godinez's Application for Motor Vehicle Extended Service Contract Producer License ("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. I further certify, under penalty of perjury, that a) I have no outstanding state or federal income tax obligations, or b) I have an outstanding state or federal income tax obligation and I have provided all information and

documentation requested in Background Information Question 36.4.

4. Godinez accepted the "Applicant's Certification and Attestation" section by signing the Application under oath and before a notary public.

5. Background Question No. 4 of the Application asks:

Have you failed to pay state or federal income tax?

Have you failed to comply with an administrative or court order directing payment of state or federal income tax?

Answer "Yes" if the answer to either question (or both) is "Yes."

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.).

6. Godinez answered "No" in response to Background Question No. 4.

7. Contrary to Godinez's response, during its investigation, the Consumer Affairs Division ("Division") of the Department discovered the following delinquent state income tax obligations that Godinez failed to disclose on her Application:

- a. On July 19, 2013, the St. Louis City Circuit Court entered a judgment against Godinez for unpaid income taxes for the 2007 and 2008 filing years as follows:

[Department] of Revenue, under Section 143.902, RSMo, hereby certifies that the following assessment of tax, interest, additions to tax, penalties, and fees have been made and become final [in the amount of \$14,973.87]. Interest continues to accrue as provided by law until the full amount of the tax liability is paid.

Department of Revenue v. Jessica Godinez, St. Louis City Cir. Ct., Case No. 1322-MC03490.

8. On August 24, 2016, after reviewing Godinez's Application and her delinquent tax obligations, Special Investigator Andrew Engler of the Division sent an inquiry letter to Godinez. The inquiry letter requested that Godinez provide a payment plan or a letter of compliance from the Missouri Department of Revenue. The inquiry letter further

requested a response within twenty (20) days and warned Godinez that failure to respond could result in the Department refusing to issue a motor vehicle extended service contract ("MVESC") producer license to Godinez.

9. The United States Postal Service did not return the August 24, 2016 inquiry letter to the Division as undeliverable, and therefore it is presumed received by Godinez.
10. Godinez failed to respond to the Division's August 24, 2016 inquiry letter, and failed to demonstrate a reasonable justification for the delay.
11. On September 16, 2016, after receiving no response from Godinez, Special Investigator Andrew Engler sent a second inquiry letter to Godinez. The inquiry letter requested the same documentation previously requested in the August 24, 2016 inquiry letter. The inquiry letter further requested a response within twenty (20) days, and warned Godinez that failure to respond could result in an administrative action.
12. The United States Postal Service did not return the September 16, 2016 inquiry letter to the Division as undeliverable, and therefore it is presumed received by Godinez.
13. Godinez failed to respond to the Division's September 16, 2016 inquiry letter, and failed to demonstrate a reasonable justification for the delay.
14. It is inferable, and hereby found as fact, that Godinez failed to disclose her delinquent tax obligations on her Application in order to misrepresent her tax compliance to the Director, and accordingly, in order to improve the chances that the Director would approve her Application and issue her a MVESC producer license.

CONCLUSIONS OF LAW

15. Section 385.209 RSMo (Supp. 2013)¹ states, in relevant 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:

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

¹ All civil statutory references are to the Revised Statutes of Missouri (2000) as updated by the 2013 Supplement unless otherwise indicated.

(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[.]

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

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.

17. "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).
18. The Director may refuse to issue a MVESC producer license to Godinez pursuant to § 385.209.1(2) because Godinez failed to respond to two (2) inquiry letters from the Division and failed to provide a reasonable justification for the delays, thereby twice violating 20 CSR 100-4.100(2)(A), a rule of the Director.
19. Each violation of a rule of the Director is a separate and sufficient ground for refusal pursuant to § 385.209.1(2).
20. The Director may refuse to issue a MVESC producer license to Godinez pursuant to § 385.209.1(3) because Godinez attempted to obtain a MVESC producer license through material misrepresentation or fraud by her false answer to Background Question No. 4 of the Application, claiming that she had never failed to pay state income tax and never failed to comply with an administrative or court order directing payment of state income tax. *Department of Revenue v. Jessica Godinez*, St. Louis City Cir. Ct., Case No. 1322-MC03490.
21. The Director may refuse to issue a MVESC producer license to Godinez pursuant to § 385.209.1(13) because Godinez failed to comply with an administrative or court order directing payment of state income tax as evidenced by the outstanding judgment in the amount of \$14,973.87 entered in *Department of Revenue v. Jessica Godinez*, St. Louis City Cir. Ct., Case No. 1322-MC03490.

22. The Director has considered Godinez's history and all of the circumstances surrounding Godinez's Application. Granting Godinez a MVEESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to issue a MVEESC producer license to Godinez.
23. This Order is in the public interest.


ORDER

IT IS THEREFORE ORDERED that Jessica Godinez's motor vehicle extended service contract producer license application is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 10th DAY OF DECEMBER, 2016.





JOHN M. HUFF, Director
Missouri Department of Insurance, Financial
Institutions and Professional Registration

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 8th day of December 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Jessica Godinez
4754 Maffitt Ave.
St. Louis, Missouri 63113

Tracking No. 1Z0R15W84291368027



Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.6515
Facsimile: 573.526.5492
Email: kathryn.latimer@insurance.mo.gov