



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

JAMES R. SPEISER, JR.,

Applicant.

)
)
)
)
)

Case No. 196100

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On November 26, 2013, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract producer license to James R. Speiser, Jr. After reviewing the Petition and the Investigative Report, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. James R. Speiser, Jr. ("Speiser") is a Missouri resident with a residential address of record of 1801 Travis Ct., Foristell, Missouri, 63348 and a mailing address of 1271C Evergreen Ct., Wentzville, Missouri, 63385.
2. On April 15, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Speiser's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. By signing the Application, Speiser attested and certified that "all of the information submitted in this application and attachments is true and complete."
4. Background Question No. 1 of the Application asks the following:

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 or 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 is 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”).

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

- a) a written statement explaining the circumstances of each incident,
- b) a copy of the charging document, and
- c) a copy of the official document which demonstrates the resolution of the charges or any final judgment[.]

- 5. Speiser marked “No” to Question No. 1.
- 6. Speiser did not disclose any criminal history in the Application.
- 7. The Consumer Affairs Division’s investigation into the Application revealed that, contrary to Speiser’s “No” answer to Background Question No. 1, Speiser has pleaded guilty to thirteen felonies and is currently charged with two felonies and a misdemeanor:
 - a. On July 15, 2005, Speiser pleaded guilty in the St. Charles County Circuit Court to five counts of the Class C Felony of Forgery, in violation of § 570.090, RSMo. The court suspended imposition of sentence and placed Speiser on five years’ probation.¹
 - b. On March 10, 2006, Speiser pleaded guilty in the St. Louis County Circuit Court to eight counts of the Class C Felony of Forgery, in violation of § 570.090, RSMo. The court suspended imposition of sentence and placed Speiser on five years’ probation. On June 7, 2007, the court held a probation revocation hearing but continued Speiser’s probation with the added requirement that he complete an intensive supervision program. Speiser completed his probation on March 10, 2011.²
 - c. On or about December 13, 2012, Speiser was charged in the St. Charles County Circuit Court with the Class B Felony of Distribution/Delivery/Manufacture/Production, or Attempt to, or Possession with Intent to Distribute/Deliver/Manufacture/Produce a Controlled Substance, in violation of § 195.211, the Class C Felony of Possession of a Controlled Substance Except 35 Grams or Less of Marijuana, in violation of

¹ *State of Missouri v. James Richard Speiser, Jr.*, St. Charles Co. Cir. Ct., No. 0511-CR02546-01.

² *State of Missouri v. James R. Speiser*, St. Louis Co. Cir. Ct., No. 05CR-003916A (Case.net No. 2105R-03916-01).

§ 195.202, and the Class A Misdemeanor of Possession of Up to 35 Grams of Marijuana. A disposition hearing is scheduled for December 18, 2013.³

8. It is inferable, and is hereby found as fact, that Speiser falsely answered “No” to Question No. 1, and failed to disclose in his Application his guilty pleas to thirteen counts of the Class C Felony of Forgery and the resulting suspended sentences, and his pending charges for the Class B Felony of Distribution/Delivery/Manufacture/Production, or Attempt to, or Possession with Intent to Distribute/Deliver/Manufacture/Produce a Controlled Substance, the Class C Felony of Possession of a Controlled Substance Except 35 Grams or Less of Marijuana, and the Class A Misdemeanor of Possession of Up to 35 Grams of Marijuana, 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 Application and issue him an MVESC producer license.
9. Both *State of Missouri v. James R. Speiser*, St. Louis Co. Cir. Ct., No. 05CR-003916A and *State of Missouri v. James Richard Speiser, Jr.*, St. Charles Co. Cir. Ct., No. 0511-CR02546-01 were initiated by prosecutors acting on behalf of the State of Missouri.
10. In No. 05CR-003916A, the St. Louis County Circuit Court found Speiser guilty upon a plea of guilty. In No. 0511-CR02546-01, the St. Charles County Circuit Court found Speiser guilty upon a plea of guilty.
11. Forgery of checks drawn upon a credit union account involves the use of financial services, banking, and finance.
12. On August 7, 2013, Consumer Affairs Division investigator Dennis Fitzpatrick mailed Speiser a written inquiry, noting Speiser’s “No” answer to Background Question No. 1, as well as the criminal history he should have disclosed in his Application, and required Speiser to submit a written statement explaining the circumstances of each incident and an update on the status of his probation.
13. On August 16, 2013, Speiser faxed a written explanation to Fitzpatrick. Describing his 2005 forgery charges, Speiser stated, in relevant part:

I shared a bank account with a girl I had started dating, but my name was not on the account. My paychecks were directly deposited in this account every week. When we broke up, she attempted to keep all of my money, so I wrote two separate checks; one at Vantage Credit Union in St. Louis County and another in St. Charles County the very next day. To cash these checks I had to sign her name, which is why I was charged with forgery.
14. According to the Information filed in the St. Charles County case, each of the five checks forged by Speiser in that matter was drawn “on the account of Dolores Speiser, made

³ *State of Missouri v. James Richard Speiser, Jr.*, St. Charles Co. Cir. Ct., No. 1311-CR02704.

payable to April Shafer[.]”⁴

15. According to the Indictment filed in the St. Louis County case, each of the eight checks forged by Speiser in that matter was “drawn on the Vantage Credit Union account of Delores S. Speiser[.]”⁵
16. It is inferable, and is hereby found as fact, that Speiser misrepresented to investigator Dennis Fitzpatrick that he had forged only two checks over a period of two days, when in fact he had forged thirteen checks over a two-month period between February 11, 2005 and March 21, 2005. Speiser falsely explained the circumstances under which he committed the forgeries, claiming that he had done it to prevent his girlfriend from keeping money that belonged to him, when in fact he wrote the checks against the account of Dolores (or Delores) Speiser. Speiser made these misrepresentations all in an effort to minimize to the Director the extent of his wrongdoing in the forgery cases, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.
17. In his August 16, 2013 written explanation, Speiser also stated “Also, in 2013 I was charged with a Class B Felony for possession of a controlled substance with the intent to distribute. There was no distributing, it was all personal use only, and did not turn into an ongoing problem.”
18. Speiser did not provide any further substantive explanation of his criminal history.

CONCLUSIONS OF LAW

19. Section 385.209 RSMo, Supp. 2012, 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:

* * *

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

* * *

⁴ *State of Missouri v. James Richard Speiser, Jr.*, St. Charles Co. Cir. Ct., No. 0511-CR02546-01.

⁵ *State of Missouri v. James R. Speiser*, St. Louis Co. Cir. Ct., No. 05CR-003916A (Case.net No. 2105R-03916-01).

(7) Been found in violation of law by a court of competent jurisdiction in an action instituted by any officer of any state or the United States in any matter involving motor vehicle extended service contracts, financial services, investments, credit, insurance, banking, or finance[.]

20. 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.
21. Speiser may be refused an MVESC producer license pursuant to § 385.209.1(3) because Speiser attempted to obtain an MVESC producer license through material misrepresentation or fraud. Speiser falsely answered "No" to Question No. 1 of the Application and failed to disclose in his Application his guilty pleas to thirteen counts of the Class C Felony of Forgery and the resulting suspended sentences, and his pending charges for the Class B Felony of Distribution/Delivery/Manufacture/Production, or Attempt to, or Possession with Intent to Distribute/Deliver/Manufacture/Produce a Controlled Substance, the Class C Felony of Possession of a Controlled Substance Except 35 Grams or Less of Marijuana, and the Class A Misdemeanor of Possession of Up to 35 Grams of Marijuana. Speiser denied and failed to disclose his criminal history 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 Application and issue him an MVESC producer license.
22. Speiser may be refused an MVESC producer license pursuant to § 385.209.1(3) because Speiser attempted to obtain an MVESC producer license through material misrepresentation or fraud. Speiser misrepresented to investigator Dennis Fitzpatrick that he had forged only two checks over a period of two days, when in fact he had forged thirteen checks over a two-month period between February 11, 2005 and March 21, 2005. Speiser falsely explained the circumstances under which he committed the forgeries, claiming that he had done it to prevent his girlfriend from keeping money that belonged to him, when in fact he wrote the checks against the account of Dolores (or Delores) Speiser. Speiser made these misrepresentations in an effort to minimize to the Director the extent of his wrongdoing in the forgery cases, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.
23. Speiser also may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(7) because Speiser has been found in violation of law by a court of competent jurisdiction in two actions instituted by officers of the state of Missouri in matters involving financial services, banking, and/or finance:
 - a. Both *State of Missouri v. James R. Speiser*, St. Louis Co. Cir. Ct., No. 05CR-003916A and *State of Missouri v. James Richard Speiser, Jr.*, St. Charles Co. Cir. Ct., No. 0511-CR02546-01 were initiated by prosecutors acting on behalf

of the State of Missouri.

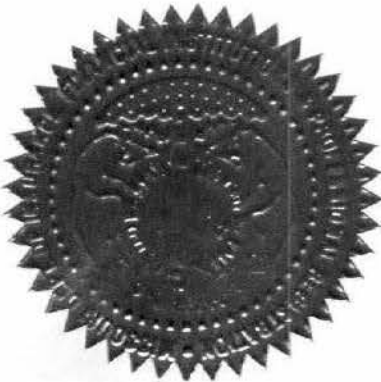
- b. In No. 05CR-003916A, the St. Louis County Circuit Court found Speiser guilty upon a plea of guilty. In No. 0511-CR02546-01, the St. Charles County Circuit Court found Speiser guilty upon a plea of guilty.
 - c. Forgery of checks drawn upon a credit union account involves the use of financial services, banking, and finance.
24. The Director has considered Speiser's history and all of the circumstances surrounding Speiser's Application. Granting Speiser a motor vehicle extended service contract producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a motor vehicle extended service contract producer license to Speiser.
25. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **James R. Speiser, Jr.** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 2ND DAY OF DECEMBER, 2013.




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 3rd day of December, 2013, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular and certified mail at the following addresses:

James R. Speiser
1271C Evergreen Ct.
Wentzville, Missouri 63385

Certified No. 7009 3410 0001 9255 0578



Angie Gross
Senior Office Support Assistant
Agent Investigation Section
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.1922
Facsimile: 573.522.3630
Email: angie.gross@insurance.mo.gov

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 3rd day of December, 2013, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular and certified mail at the following addresses:

James R. Speiser
1271C Evergreen Ct.
Wentzville, Missouri 63385

Certified No. 7009 3410 0001 9255 0585



Angie Gross
Senior Office Support Assistant
Agent Investigation Section
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.1922
Facsimile: 573.522.3630
Email: angie.gross@insurance.mo.gov