State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
CHARLES R. BILLUPS, JR.	)	**Case No. 14-0424415C**
	)	
Applicant.	)	

ORDER REFUSING TO RENEW MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On April 29, 2014, 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 Charles R. Billups, Jr. 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. Charles R. Billups, Jr. ("Billups") is a Missouri resident with a residential address of record of 9416 Burdella Drive, St. Louis, Missouri, 63114.

2. On December 30, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Billups's Application for Motor Vehicle Extended Service Contract Producer License (the "2011 Application").

3. By signing the 2011 Application, Billups 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 2011 Application asked 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. Billups marked "No" to Question No. 1 of the 2011 Application.

6. Billups did not disclose any criminal history or pending charges in the 2011 Application.

7. On January 1, 2012, relying on Billups's 2011 Application responses, the Director issued Billups an individual MVESC producer license. That license expired on January 1, 2014.

8. On December 2, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Billups's Application for Motor Vehicle Extended Service Contract Producer License Renewal (the "2013 Application").

9. By signing the 2013 Application, Billups attested and certified that "all of the information submitted in this application and attachments is true and complete."

10. Background Question No. 1 of the 2013 Application asked:

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: involving 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 convictions.

"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.

"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").

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.

11. Billups marked "No" to Question No. 1 of the 2013 Application.

12. Billups did not disclose any criminal history in the 2013 Application.

13. The Consumer Affairs Division's investigation into the 2013 Application revealed that, contrary to Billups's "No" answers to Background Question No. 1 in the 2011 Application and 2013 Application, at the time Billups submitted the 2011 Application he had received a suspended imposition of sentence after pleading guilty to the Class C Felony of Possession of a Controlled Substance Except 35 Grams or Less of Marijuana, and before the time Billups submitted his 2013 Application the court had revoked his probation and imposed sentence:

    a. On July 17, 2008, Billups pleaded guilty in the St. Charles County Circuit Court to the Class C Felony of Possession of a Controlled Substance Except 35 Grams or Less of Marijuana, in violation of § 195.202, RSMo. The court suspended the imposition of sentence and placed Billups on five years' probation. On January 5, 2012, the court revoked Billups's probation and sentenced Billups to five years' imprisonment. The court suspended execution of the sentence and placed Billups on another five years' probation.[1]

14. On December 5, 2013, Consumer Affairs Division investigator Andrew Engler mailed Billups a written inquiry, noting Billups's "No" answer to Background Question No. 1 in his 2013 Application, as well as the criminal history he should have disclosed in his 2013 Application, and requiring Billups to submit a written statement explaining the circumstances of each incident.

15. On December 13, 2013, Billups called Engler and verbally responded to the December 5, 2013 written inquiry, stating that he answered "No" to Background Question No. 1 of the 2013 Application because he had received a suspended imposition of sentence.

16. Contrary to Billups's statements made during the December 13, 2013 phone call:

[1] *State of Missouri v. Charles Rodell Billups, Jr.*, St. Charles Co. Cir. Ct., No. 0711-CR07053-01.

a. The language of Background Question No. 1 of the 2013 is plain and clear in calling for the disclosure of cases in which the imposition of sentence is suspended; and

b. By the time Billups submitted the 2013 Application, his probation had been revoked and sentence had been imposed, converting the suspended imposition of sentence into a conviction.

17. It is inferable, and is hereby found as fact, that Billups falsely answered "No" to Question No. 1 of the 2011 Application, and failed to disclose in his 2011 Application that he had received a suspended imposition of sentence after pleading guilty to the Class C Felony of Possession of a Controlled Substance Except 35 Grams or Less 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.

18. It is inferable, and is hereby found as fact, that Billups falsely answered "No" to Question No. 1 of the 2013 Application, and failed to disclose in his 2013 Application that he had been convicted of the Class C Felony of Possession of a Controlled Substance Except 35 Grams or Less 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.

CONCLUSIONS OF LAW

19. Section 385.209 RSMo, Supp. 2013, 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;
>
> * * *
>
> (3) Obtained or attempted to obtain a license through material misrepresentation or fraud;
>
> * * *

(5) Been convicted of any felony[.]

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. The Director may refuse to renew Billups's MVESC producer license under § 385.209.1(5) because Billups has been convicted of a felony:

    a. The Class C Felony of Possession of a Controlled Substance Except 35 Grams or Less of Marijuana, in violation of § 195.202, RSMo.

22. The Director also may refuse to renew Billups's MVESC producer license under § 385.209.1(3) because Billups attempted to obtain and obtained an MVESC producer license through material misrepresentation or fraud. Billups falsely answered "No" to Question No. 1 of the 2011 Application, and failed to disclose in his 2011 Application that he had received a suspended imposition of sentence after pleading guilty to the Class C Felony of Possession of a Controlled Substance Except 35 Grams or Less 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.

23. The Director also may refuse to renew Billups's MVESC producer license under § 385.209.1(3) because Billups attempted to obtain an MVESC producer license through material misrepresentation or fraud. Billups falsely answered "No" to Question No. 1 of the 2013 Application, and failed to disclose in his 2013 Application that he had been convicted of the Class C Felony of Possession of a Controlled Substance Except 35 Grams or Less 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 renew his MVESC producer license.

24. The Director also may refuse to renew Billups's MVESC producer license under § 385.209.1(1) because Billups 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. Billups's 2011 Application was incomplete in a material respect and contained incorrect, misleading and untrue information in that Billups falsely answered "No" to Question No. 1 of the 2011 Application, and failed to disclose in his 2011 Application that he had received a suspended imposition of sentence after pleading guilty to the Class C Felony of Possession of a Controlled Substance Except 35 Grams or Less of Marijuana, in order to misrepresent to the Director that he had no criminal history.

25. The Director has considered Billups's history and all of the circumstances surrounding Billups's Application. Renewing Billups's MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to renew Billups's MVESC producer license.

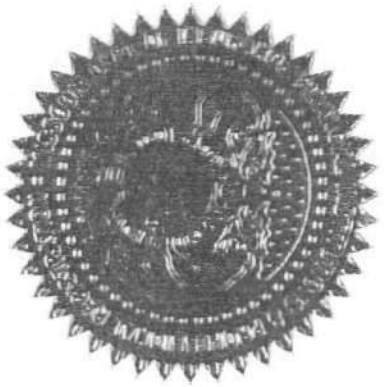
26. This order is in the public interest.

ORDER

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

SO ORDERED.

WITNESS MY HAND THIS 2ND **DAY OF** MAY **, 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 2nd day of May, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail at the following addresses:

Charles R. Billups, Jr.
9416 Burdella Drive
St. Louis, Missouri 63114

Certified No. 7009 3410 0001 9254 7769

Angie Gross

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