State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
COREY JAMEL COTTON,	)	**Case No. 160129051C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On May 11, 2016, the Consumer Affairs Division, submitted a Petition to the Director alleging cause to refuse to issue a motor vehicle extended service contract producer license to Corey Jamel Cotton. 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. Corey Jamel Cotton ("Cotton") is a Missouri resident with a residential and mailing address of 12072 San Ricardo, St. Louis, Missouri 63138 and a business address of 3000 Little Hills Expressway, Suite 101, St. Charles, Missouri 63301.

2. On October 30, 2015, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Cotton'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.

5. I further certify, under penalty of perjury, that a) I have no child support obligation, b) I have a child support obligation and I am currently in compliance with that obligation, or c) I have a child support obligation that is in arrears, I am in compliance with a repayment plan to cure the arrears, and I have provided all information and documentation requested in Background Information Question 36.7.

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

5. Employment History Question No. 35 of the Application requests the following, in relevant part:

> Account for all time for the past five years. List all employment experience starting with your current employer and working back five years.

6. In response to Employment History Question No. 35, Cotton admits he has been working as a "Sales Assistant" for "National Vehicle Protection Services, Inc.," in St. Charles, Missouri since October 2015.

7. Dealership Warranties, Inc. d/b/a National Vehicle Protection Services is licensed by the Department as a motor vehicle extended service contract business entity producer, License Number 8160344, to sell, offer, negotiate, or solicit motor vehicle extended service contracts.

8. At no time since January 1, 2012,[1] has the Director issued a motor vehicle extended service contract ("MVESC") producer license to Cotton to sell, offer, negotiate, or solicit motor vehicle extended service contracts with consumers.

9. Based upon his Application, Cotton, since October 2015, has engaged in selling, offering, negotiating, or soliciting motor vehicle extended service contracts with consumers, in or from this state, without a MVESC producer license.

10. 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

[1] Under SB 132, the licensing and general requirements to be a MVESC producer became effective on January 1, 2012. *See* §§ 385.206, 385.209 RSMo (Supp. 2013).

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.).

11. Cotton answered "No" in response to Background Question No. 4.

12. Contrary to Cotton's response, during its investigation, the Consumer Affairs Division ("Division") discovered the following delinquent state income tax obligations that Cotton failed to disclose on his Application:

a. On February 14, 2012, the St. Louis County Circuit Court entered a judgment against Cotton for unpaid income taxes for the 2006 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 $4,073.51]. Interest continues to accrue as provided by law until the full amount of the tax liability is paid.

Department of Revenue v. Corey J. Cotton, St. Louis Co. Cir. Ct., Case No. 12SL-MC02450.

13. Background Question No. 7 of the Application asks:

Do you currently have or have you had a child support obligation?

If you answer yes:
a) are you in arrearage?
b) by how many months are you in arrearage?
c) what is the total amount of your arrearage?
d) are you currently subject to a repayment agreement to cure the arrearage? (If you answer yes, provide documentation showing an approved repayment plan from the appropriate state child support agency.)
e) are you in compliance with said repayment agreement? (If you

answer yes, provide documentation showing proof of current payments from the appropriate state child support agency.)

f) are you the subject of a child support related subpoena/warrant? (If you answer yes, provide documentation showing proof of current payments or an approved repayment plan from the appropriate state child support agency.)

g) have you ever been convicted of a misdemeanor or felony for failure to pay child support?

14. In response to Background Question No. 7, Cotton answered that he has a child support obligation, but indicated that he was not in arrearage, not subject to a repayment agreement to cure an arrearage, not the subject of a child support related subpoena or warrant, and has not been convicted of a misdemeanor or felony for failure to pay child support.

15. Contrary to Cotton's response, during its investigation the Division discovered that Cotton has two (2) child support obligations that are both in arrears:

    a. As of October 30, 2015, when the Department received his Application, Cotton owed $196.81 to J.L. in child support arrears. Cotton is obligated to pay $105.00 per month in child support. As of May 2016, Cotton's arrears total $451.98. Family Support Division, Child Support Enforcement, Missouri Department of Social Services, Case No. 30252578.

    b. As of October 30, 2015, when the Department received his Application, Cotton owed $680.37 to M.S. in child support arrears. Cotton is obligated to pay $363.00 per month in child support. As of May 2016, Cotton's arrears total $1,562.37. *State of MO DFS, et al. v. Corey Jemail Cotton*, St. Louis Co. Cir. Ct., Case No. 12SL-DR05118.

16. On November 4, 2015, after reviewing Cotton's Application and his delinquent tax obligations, Special Investigator Andrew Engler of the Division sent an inquiry letter to Cotton. The inquiry letter requested that Cotton provide a payment plan or a letter of compliance from the Department of Revenue. The inquiry letter further requested a response within twenty (20) days, and warned Cotton that a failure to respond could result in the Department refusing to issue him a MVESC producer license.

17. The United States Postal Service did not return the November 4, 2015 inquiry letter to the Division as undeliverable, and therefore it is presumed received by Cotton.

18. Cotton failed to respond to the Division's November 4, 2015 inquiry letter, and failed to demonstrate a reasonable justification for the delay.

19. On November 30, 2015, Special Investigator Andrew Engler of the Division sent a second inquiry letter to Cotton. The inquiry letter requested the same documentation

requested in the November 4, 2015 inquiry letter. The inquiry letter further requested a response within twenty (20) days, and again warned Cotton that a failure to respond could result in the Department refusing to issue him a MVESC producer license.

20. The United States Postal Service did not return the November 30, 2015 inquiry letter to the Division as undeliverable, and therefore it is presumed received by Cotton.

21. Cotton failed to respond to the Division's November 30, 2015 inquiry letter, and failed to demonstrate a reasonable justification for the delay.

22. It is inferable, and hereby found as fact, that Cotton failed to disclose his delinquent tax obligations on his Application in order to misrepresent his tax compliance to the Director, and accordingly, in order to improve the chances that the Director would approve his Application and issue him a MVESC producer license.

23. It is inferable, and hereby found as fact, that Cotton failed to disclose his child support arrears on his Application in order to misrepresent his child support compliance to the Director, and accordingly, in order to improve the chances that the Director would approve his Application and issue him a MVESC producer license.

CONCLUSIONS OF LAW

24. Section 385.209 RSMo (Supp. 2013)[2] 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;
>
> (3) Obtained or attempted to obtain a license through material misrepresentation or fraud;
>
> * * *
>
> (11) Unlawfully acted as a producer without a license;

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

(12) Failed to comply with an administrative or court order imposing a child support obligation; [or]

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

25. Section 385.206 provides, in part:

1. It is unlawful for any person in or from this state to sell, offer, negotiate, or solicit a motor vehicle extended service contract with a consumer, other than the following:

* * *

(6) A business entity producer or individual producer licensed under section 385.207[.]

26. Section 385.207.3 provides:

An individual, prior to selling, offering, negotiating, or soliciting a motor vehicle extended service contract with a consumer under subdivision (6) of subsection 1 of section 385.206, shall apply for and obtain licensure with the director as an individual producer in accordance with this section.

27. 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.

28. "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).

29. The Director may refuse to issue a MVESC producer license to Cotton pursuant to § 385.209.1(2) because Cotton twice violated a rule of the Director, namely 20 CSR 100-4.100(2)(A), when he failed to respond to two (2) inquiry letters from the Division and failed to provide a reasonable justification for the delays.

30. The Director may refuse to issue a MVESC producer license to Cotton pursuant to

§ 385.209.1(2) because Cotton violated a provision in §§ 385.200 to 385.220, namely § 385.206.1(6), when he unlawfully, in or from this state, sold, offered, negotiated, or solicited motor vehicle extended service contracts with a consumer since October 2015, during his employment with National Vehicle Protection Services, a licensed MVESC business entity producer.

31. Each violation of any provision in §§ 385.200 to 385.220 or a rule of the Director is a separate and sufficient ground for refusal pursuant to § 385.209.1(2).

32. The Director may refuse to issue a MVESC producer license to Cotton pursuant to § 385.209.1(3) because Cotton attempted to obtain a MVESC producer license through material misrepresentation or fraud when he failed to disclose the following delinquent tax obligations in response to Background Question No. 4 on his Application:

    a. Judgment in the amount of $4,073.51 for unpaid taxes in the 2006 and 2008 filing years. *Department of Revenue v. Corey J. Cotton*, St. Louis Co. Cir. Ct., Case No. 12SL-MC02450.

33. The Director may refuse to issue a MVESC producer license to Cotton pursuant to § 385.209.1(3) because Cotton attempted to obtain a MVESC producer license through material misrepresentation or fraud when he failed to disclose his arrearage for two (2) child support obligations in response to Background Question No. 7 on his Application:

    a. Family Support Division, Child Support Enforcement, Missouri Department of Social Services, Case No. 30252578 (Arrearage in the amount of $196.81 when the Department received Cotton's Application; Arrearage of $451.98 as of May 2016).

    b. *State of MO DFS, et al. v. Corey Jemail Cotton*, St. Louis Co. Cir. Ct., Case No. 12SL-DR05118 (Arrearage in the amount of $680.37 when the Department received Cotton's Application; Arrearage of $1,562.37 as of May 2016).

34. Each attempt to obtain a license through material misrepresentation or fraud is a separate and sufficient ground for refusal pursuant to § 385.209.1(3).

35. The Director may refuse to issue a MVESC producer license to Cotton pursuant to § 385.209.1(11) because he unlawfully acted as a producer without a license during his employment as a "Sales Assistant" at Dealership Warranties, Inc. d/b/a National Vehicle Protection Services, a MVESC business entity producer.

36. The Director may refuse to issue a MVESC producer license to Cotton pursuant to § 385.209.1(12) because Cotton failed to comply with two (2) administrative or court orders imposing child support obligations:

    a. Family Support Division, Child Support Enforcement, Missouri Department of Social Services, Case No. 30252578 (Arrearage in the amount of $196.81 when

the Department received Cotton's Application; Arrearage of $451.98 as of May 2016).

b. *State of MO DFS, et al. v. Corey Jemail Cotton*, St. Louis Co. Cir. Ct., Case No. 12SL-DR05118 (Arrearage in the amount of $680.37 when the Department received Cotton's Application; Arrearage of $1,562.37 as of May 2016).

37. Each instance in which Cotton failed to comply with an administrative or court order imposing a child support obligation is a separate and sufficient ground for refusal pursuant to § 385.209.1(12).

38. The Director may refuse to issue a MVESC producer license to Cotton pursuant to § 385.209.1(13) because Cotton failed to comply with an administrative or court order directing payment of state or federal income tax:

a. Judgment in the amount of $4,073.51 for unpaid taxes in the 2006 and 2008 filing years. *Department of Revenue v. Corey J. Cotton*, St. Louis Co. Cir. Ct., Case No. 12SL-MC02450.

39. The Director has considered Cotton's history and all of the circumstances surrounding Cotton's Application. Granting Cotton a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a MVESC producer license to Cotton.

40. This Order is in the public interest.

ORDER

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

SO ORDERED.

WITNESS MY HAND THIS 12th **DAY OF** May**, 2016.**

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 12th day of May, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by United Parcel Service, signature required, to the following address:

Corey Jamel Cotton
12072 San Ricardo
St. Louis, Missouri 63138

Tracking No. 1Z0R15W84299360038

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