



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:)
)
 CHARLES EDWARD THOMPSON, III) Case No. 141110732C
)
 Applicant.)

ORDER REFUSING TO ISSUE **MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE**

On January 13, 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 Charles Edward Thompson, III. 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. Charles Edward Thompson, III ("Thompson") is a Missouri resident with a residential and mailing address of record of 1708 Coupur Ct., Saint Peters, MO 63376.
2. On February 7, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Thompson's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. Thompson answered "Yes" to Background Information Question 33.1 of the Application which asked, in relevant part:

Have you ever been convicted of a crime, had a judgement withheld or deferred, or are you currently charged with committing a crime?

* * *

"Had a judgement 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 judgement[.]

4. With his Application, Thompson submitted a letter dated January 31, 2014 stating verbatim, in relevant part:

I Charles Thompson was placed on child support an probation on the date of July 25, of 2012, I was sentenced to a 5 year term an obligated to pay 275 a month, which I am currently up to date on all payments. My charge is a SIS, which should be complete with good behavior this yr. I have no other charges pending or any other charges on my record at this time.

5. With his Application, Thompson also submitted certified copies of the following documents in *State v. Charles E. Thompson*, St. Louis Co. Cir. Ct., Case No. 08SL-CR07986-01:

- a. Docket sheet;
- b. Information;
- c. Plea of Guilty;
- d. Sentence and Judgment;
- e. Supplemental Sentence - Non Support Case; and
- f. Probation Revocation Hearing and Judgment.

6. On May 14, 2009, Thompson was charged by Information with the Class D Felony of Criminal Nonsupport, in violation of § 568.040, RSMo.¹ *State v. Charles E. Thompson*, St. Louis Co. Cir. Ct., Case No. 08SL-CR07986-01. On July 26, 2012, Thompson pled guilty and the court suspended imposition of the sentence, instead ordering Thompson to serve five years' supervised probation, six days' "shock" incarceration, and to pay \$275 per month in child support for the support of minor W.T.T.² *Id.*

7. The Applicant's Certification and Attestation section of the Application, which Thompson accepted by his notarized signature, provides, in relevant part:

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.

¹ All references to criminal statutes are to those contained in the version of the Revised Statutes of Missouri pursuant to which each judgment was rendered.

² The minor's full name has been redacted.

8. The Consumer Affairs Division (“Division”) of the Department conducted an investigation and discovered, contrary to Thompson’s sworn statement that he “ha[d] no other charges pending or any other charges on [his] record” except those in *State v. Charles E. Thompson*, St. Louis Co. Cir. Ct., Case No. 08SL-CR07986-01, for Class D Felony, Criminal Nonsupport, that Thompson had in fact been charged with, and on March 9, 2007 pled guilty to, Distribution, Delivery, Manufacture, or Production, or Possession with Intent to Distribute, Deliver, Manufacture, or Produce, a Controlled Substance, in violation of § 195.211, RSMo. *State v. Charles E. Thompson*, St. Louis Co. Cir. Ct., Case No. 2106R-05097-01. The court suspended the imposition of sentence and placed Thompson on probation, which he completed in September 2013.
9. The Division’s investigation further discovered that, contrary to Thompson’s sworn statement that he was “currently up to date on all payments” of \$275 per month as ordered by the court in *State v. Charles E. Thompson*, St. Louis Co. Cir. Ct., Case No. 08SL-CR07986-01, Thompson is in fact in arrears of approximately \$12,706.39 as of January 13, 2015. Thompson has made payments totaling only \$1,179.75 in the past year – approximately one third of the amount ordered. Missouri Department of Social Services, Family Support Division, Child Support Enforcement Case No. 31204632.
10. On March 5, 2014, Andrew Engler, a Special Investigator with the Division (“Special Investigator Engler”), mailed Thompson an inquiry letter (“first inquiry letter”) by first-class mail, postage prepaid, requesting a child support payment history. The first inquiry letter further advised Thompson that his response was due by March 25, 2014 and that failure to respond could result in a refusal to issue Thompson a motor vehicle extended service contract (“MVESC”) producer license.
11. The first inquiry letter was not returned to the Division as undeliverable; therefore, Thompson is presumed to have received it.
12. The Division received no communication from Thompson with regard to the first inquiry letter on or before March 25, 2014, nor did he demonstrate a reasonable justification for the delay.
13. On March 25, 2014, Special Investigator Engler mailed 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 Thompson that his response was due by April 14, 2014 and that failure to respond could result in a refusal to issue Thompson a MVESC producer license.
14. The second inquiry letter was not returned to the Division as undeliverable; therefore, Thompson is presumed to have received it.

15. The Division received no communication from Thompson with regard to the second inquiry letter on or before April 14, 2014, nor did he demonstrate a reasonable justification for the delay.
16. The Division never received a child support payment history from Thompson.
17. It is inferable, and hereby found as fact, that Thompson's statements in the letter submitted with his Application, as well as his answers to Background Information question 33.7 of the Application, were made in order to misrepresent to the Director that he had no delinquent child support obligations or criminal history except *State v. Charles E. Thompson*, St. Louis Co. Cir. Ct., Case No. 08SL-CR07986-01 (Class D Felony, Criminal Nonsupport), and, accordingly, to improve the chance that the Director would act favorably on his Application and issue Thompson a MVESC producer license.

CONCLUSIONS OF LAW

18. Section 385.209.1, RSMo (Supp. 2014)³ 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) 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; [or]

* * *

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

19. 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

³ All statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2014 RSMo Supplement, unless otherwise noted.

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.

20. "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).
21. 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.
22. The Director may refuse to issue a MVESC producer license to Thompson pursuant to § 385.209.1(2) because Thompson 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.
23. The Director may refuse to issue a MVESC producer license to Thompson pursuant to § 385.209.1(3) because Thompson has attempted to obtain a MVESC producer license through material misrepresentation or fraud by his false statement in his Application, claiming that he was compliant with his child support obligation.
24. The Director may refuse to issue a MVESC producer license to Thompson pursuant to § 385.209.1(3) because Thompson has attempted to obtain a MVESC producer license through material misrepresentation or fraud by his false statement in his Application, claiming that he had no criminal history except *State v. Charles E. Thompson*, St. Louis Co. Cir. Ct., Case No. 08SL-CR07986-01. Although Background Information Question 33.1 of the Application clearly requires disclosure of any guilty pleas or suspended imposition of sentence, Thompson did not disclose that he pled guilty to Distribution, Delivery, Manufacture, or Production, or Possession with Intent to Distribute, Deliver, Manufacture, or Produce, a Controlled Substance, in violation of § 195.211, RSMo. *State v. Charles E. Thompson*, St. Louis Co. Cir. Ct., Case No. 2106R-05097-01.
25. The Director may refuse to issue a MVESC producer license to Thompson pursuant to § 385.209.1(12) because Thompson has failed to comply with an administrative or court order imposing a child support obligation. Thompson pled guilty to the Class D Felony of Criminal Nonsupport, in violation of § 568.040, RSMo. *State v. Thompson*. He is currently approximately \$12,706.39 in arrears. Missouri Department of Social Services, Family Support Division, Child Support Enforcement Case No. 31204632.

26. The Director has considered Thompson's history and all of the circumstances surrounding Thompson's Application. Issuing a MVESC producer license to Thompson would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a MVESC producer license to Thompson.
27. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Charles Edward Thompson, III** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 13TH 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 14th 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:

Charles Edward Thompson, III
1708 Coupur Court
Saint Peters, Missouri 63376

No. 1Z0R15W84292452111



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