



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:

CHAD D. HUTTON,

Applicant.

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Case No. 195344

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

On November 18, 2013, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract (MVESC) producer license to Chad D. Hutton. 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. Chad D. Hutton ("Hutton") is a Missouri resident with a residential address of record of 330 Villa Drive, Lake St. Louis, Missouri, 63367.
2. On May 3, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Hutton's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. By signing the Application, Hutton 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 judgement[.]

5. Hutton answered “No” to Question No. 1. Hutton did not disclose any criminal history in his Application.
6. Contrary to Hutton’s “No” answer to Question No. 1, the Consumer Affairs Division’s investigation of Hutton’s Application revealed that on September 25, 2003, Hutton pleaded no contest in the County Court of Burnet County, Texas, to the Class B Misdemeanor of Theft by Check, in violation of Texas Penal Code § 31.03 (2000). The court withheld sentence and placed Hutton on 1 month’s probation and ordered Hutton to pay \$2,156.60 in restitution, a \$273.00 fine and \$232.25 in court costs.¹
7. It is inferable, and is hereby found as fact, that Hutton falsely answered “No” to Question No. 1 and failed to disclose his plea of no contest to the Class B Misdemeanor of Theft by Check, and the resulting withheld sentence, in his Application 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.
8. On May 10, 2013, Consumer Affairs Division investigator Karen Crutchfield mailed an inquiry letter to Hutton, noting that despite Hutton’s “No” answer to Question No. 1, she had discovered that Hutton had criminal history that should have been reported, requesting that Hutton explain the circumstances surrounding each criminal incident, and requesting certified copies of court documents related to each case.²
9. Crutchfield mailed the May 10, 2013 letter by first class mail, to Hutton’s address of record, with sufficient postage attached.
10. The May 10, 2013 letter was not returned as undeliverable.
11. Hutton never responded to the May 10, 2013 letter and has not demonstrated any

¹ *State of Texas v. Chad Hutton*, County Ct. of Burnet Co., Texas, Cause No. M-15917.

² The Burnet County Clerk was unable to produce records for two cases that were older than the Theft by Check case, Cause No. M-15917. Accordingly, they are not considered in this Order.

justification for his failure to respond.

12. On June 3, 2013, Consumer Affairs Division investigator Karen Crutchfield mailed a second inquiry letter to Hutton, again noting that despite Hutton's "No" answer to Question No. 1, she had discovered that he had criminal history that should have been reported, and again requesting that Hutton explain the circumstances surrounding each criminal incident and provide certified copies of court documents related to each case.
13. Crutchfield mailed the June 3, 2013 letter by first class mail, to Hutton's address of record, with sufficient postage attached.
14. The June 3, 2013 letter was not returned as undeliverable.
15. Hutton never responded to the June 3, 2013 letter and has not demonstrated any justification for his failure to respond.

CONCLUSIONS OF LAW

16. 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:

* * *

- (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[.]

17. Regulation 20 CSR 100-4.100(2) states:

- (2) Except as required under subsection (2)(B)—

- (A) 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.

(B) This rule shall not apply to any other statute or regulation which requires a different time period for a person to respond to an inquiry by the department. If another statute or regulation requires a shorter response time, the shorter response time shall be met. This regulation operates only in the absence of any other applicable laws.

18. 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.
19. The Director may refuse to issue an MVESC producer license to Hutton under § 385.209.1(3) because Hutton attempted to obtain an MVESC producer license through material misrepresentation or fraud. Hutton falsely answered “No” to Question No. 1 and failed to disclose his plea of no contest to the Class B Misdemeanor of Theft by Check, and the resulting withheld sentence, in his Application 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.
20. The Director also may refuse to issue an MVESC producer license to Hutton under § 385.209.1(2) because Hutton violated a rule of the Director, in that he failed to adequately respond to two written inquiries from the Consumer Affairs Division—mailed on May 10, 2013, and June 3, 2013—without demonstrating reasonable justification for either of his failures to respond, each time thereby violating regulation 20 CSR 100-4.100(2), which is a rule of the Director.
21. The Director has considered Hutton’s history and all of the circumstances surrounding Hutton’s Application. Granting Hutton an 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 Hutton.
22. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Chad D. Hutton** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 19th DAY OF NOVEMBER, 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 21st day of November, 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:

Chad D. Hutton
330 Villa Drive
Lake St. Louis, Missouri 63367

Certified No. 7009 3410 0001 9255 0554



Angie Gross
Senior Office Support Assistant
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