



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

Christian Korbakis,

Applicant.

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Case No. 14-1003686C

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On December 29, 2014, 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 Christian Korbakis. 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. Christian Korbakis ("Korbakis") is a Missouri resident with a residential address of 5107 Applerock Dr., O'Fallon, Missouri, 63368.
2. On July 3, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Korbakis' 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. On June 13, 2014, Korbakis signed the "Applicant's Certification and Attestation" section under oath before a notary.
5. Background Question No. 1 of the Application asks the following:

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?

“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: 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”).

Unless excluded by the language above, you must disclose convictions that have been expunged.

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

- a) a written statement explaining the circumstances of each incident,
 - b) a certified copy of the charging document, and
 - c) a certified copy of the official document which demonstrates the resolution of the charges or any final judgment.
6. Korbakis answered “No” in response to Background Question No. 1.
 7. Korbakis did not disclose any criminal history on his Application.
 8. Contrary to Korbakis’ “No” answer to Background Question No. 1, the Consumer Affairs Division’s (“Division”) investigation into Korbakis’ Application revealed the following criminal history:
 - a) On December 21, 2005, Korbakis pled guilty to the Class A Misdemeanor of Domestic Assault in the Third Degree, in violation of § 565.074, RSMo. The court sentenced Korbakis to one (1) year incarceration but suspended the execution of sentence and placed Korbakis on two (2) years’ supervised probation. The court also ordered Korbakis to pay \$116.50 in court fees, to undergo a Psychological Evaluation and Treatment, and to undergo Substance Abuse Evaluation and Treatment. *State v. Christian William Korbakis*, St. Charles Co. Cir. Ct., No. 0511-CR05688.
 - b) On July 10, 2006, Korbakis pled guilty to the Class D Felony of Unlawful Use of a Weapon, in violation of § 571.030, RSMo. The court suspended the imposition of

sentence and placed Korbakis on five (5) years' probation. The court ordered Korbakis to undergo alcohol treatment, psychiatric evaluation and treatment, and to have no contact with T.D. On November 22, 2010, the court found that Korbakis had violated his probation and ordered him to complete thirty (30) days' shock incarceration. *State of Missouri v. Christian William Korbakis*, St. Charles Co. Cir. Ct., No. 0611-CR01271-01.

9. On July 14, 2014, Special Investigator Andrew Engler, with the Division, sent an inquiry letter to Korbakis at his address on record by first class mail via the US Postal Service. Said inquiry letter requested a statement explaining the circumstances surrounding Korbakis' convictions and why he failed to disclose them on his Application. The letter also requested certified copies of the information, complaint or other charging documents in the criminal matters. The inquiry letter further requested a response by August 3, 2014, and warned Korbakis that a failure to respond could result in the Department refusing to issue him a motor vehicle extended service contract ("MVESC") producer license.
10. The United States Postal Service did not return the July 14, 2014 inquiry letter to the Division, and therefore it is presumed delivered.
11. Korbakis failed respond to the Division's July 14, 2014 inquiry letter and failed to demonstrate a reasonable justification for the delay.
12. On August 4, 2014, Special Investigator Engler sent a second inquiry letter to Korbakis at his address on record by first class mail via the US Postal Service. Said letter requested the same information and documentation previously requested in the July 14, 2014 inquiry letter. The letter further requested a response by August 24, 2014, and warned Korbakis that a failure to respond could result in the Department refusing to issue him a MVESC producer license.
13. The United States Postal Service did not return the August 4, 2014 inquiry letter to the Division, and therefore it is presumed delivered.
14. Korbakis failed to respond to the Division's August 4, 2014 inquiry letter and failed to demonstrate a reasonable justification for the delay.
15. It is inferable, and hereby found as fact, that Korbakis falsely answered "No" to Background Question No. 1 in order to misrepresent to the Director that he had no criminal history and, accordingly, in order to improve the chances the Director would approve his Application and issue him a MVESC producer license.

CONCLUSIONS OF LAW

16. Section 385.209 RSMo (Supp. 2014) provides, 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; [or]

* * *

(3) Obtained or attempted to obtain a license through material misrepresentation or fraud[.]

17. 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.

18. "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).

19. 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.

20. The Director may refuse to issue Korbakis an MVESC producer license pursuant to § 385.209.1(2) because Korbakis twice violated a rule of the Director, namely 20 CSR 100-4.100(2)(A), in that Korbakis failed to respond to two (2) written inquiries from the Division and failed to demonstrate a reasonable justification for the delay.

21. Each violation of 20 CSR 100-4.100(2)(A) is a separate and sufficient ground for refusal under § 385.209.1(2).

22. The Director also may refuse to issue Korbakis an MVESC producer license pursuant to § 385.209.1(3) because he attempted to obtain a license through material misrepresentation or fraud in that Korbakis falsely answered "No" to Question No. 1 and

failed to disclose his criminal history, to wit:

- a) On December 21, 2005, Korbakis pled guilty to and was convicted of the Class A Misdemeanor of Domestic Assault in the Third Degree. *State v. Christian William Korbakis*, St. Charles Co. Cir. Ct., No. 0511-CR05688.
 - b) On July 10, 2006, Korbakis pled guilty to and received a suspended imposition of sentence for the Class D Felony of Unlawful Use of a Weapon. *State of Missouri v. Christian William Korbakis*, St. Charles Co. Cir. Ct., No. 0611-CR01271-01.
23. The Director has considered Korbakis' history and all of the circumstances surrounding his Application. Issuing Korbakis an MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue Korbakis an MVESC producer license.
24. This Order is in the public interest.

ORDER

IT IS THEREFORE Christian Korbakis is hereby REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 29th DAY OF DECEMBER, 2014.




JOHN M. HUFF
DIRECTOR

NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

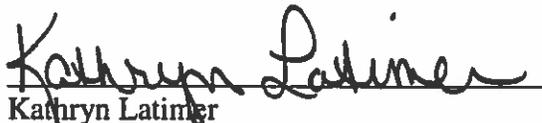
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 30th day of December, 2014 a copy of the foregoing Order and Notice was served upon the Renewal Applicant by UPS, signature required, at the following address:

Christian Korbakis
5107 Applerock Dr.
O'Fallon, MO 63368

Tracking No. 1Z0R15W84291765642



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