State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
CALEB MICHAEL ROSE,	)	**Case No. 140429437C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On July 1, 2014, 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 Caleb Michael Rose. 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. Caleb Michael Rose ("Rose") is a Missouri resident with a residential address of record of 2212 North Village Drive, St. Charles, Missouri, 63303.

2. On February 24, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Rose'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. Rose signed the Application in the "Applicant's Certification and Attestation" section.

5. 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 and 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[.]

6. Rose marked "Yes" to Question No. 1, and included a letter dated February 14, 2014 that disclosed that Rose is on probation until December 2017 and explained the facts surrounding the following cases:

   a. On April 3, 2009, Rose pled guilty to two (2) counts of Sale of Controlled Substance, both Class B Felonies, both in violation of § 195.211.[1] The court sentenced Rose to seven (7) years' confinement, but suspended imposition of the sentence and placed Rose on probation. The court further ordered Rose to complete forty-five (45) days shock incarceration, and Required Educational Assessment and Community Treatment ("R.E.A.C.T") with treatment and aftercare. On August 21, 2012, the court revoked Rose's probation, suspended the execution of his original sentence, and sentenced Rose to one-hundred twenty (120) days' confinement. *State v. Caleb Michael Rose*, St. Charles Co. Cir. Ct., Case No. 0811-CR05312-01.

[1] All statutory references are to the 2013 Supplement to the Revised Statutes of Missouri unless otherwise noted.

b. On May 15, 2012, Rose pled guilty to Stealing a Controlled Substance, a Class C Felony, in violation of § 570.030. The court sentenced Rose to seven (7) years' confinement to run concurrent with the sentence entered in case number 8011-CR05312-01. On November 13, 2012, the court entered an Order of Probation that ordered Rose to complete 120 days' confinement and then placed Rose on five (5) years' supervised probation, effective December 19, 2012. *State v. Caleb Michael Rose*, St. Charles Co. Cir. Ct., Case No. 1111-CR04081-01.

c. On October 15, 2012, Rose pled guilty to Trespass, in violation of St. Charles Ordinance 375.520. The court sentenced Rose to fifteen (15) days' confinement, to be served concurrent with the sentence entered in case number 1111-CR04081-01. *County of St. Charles v. Caleb Michael Rose*, St. Charles Co. Mun. Ct., Case No. 110622747.

7. During its investigation, the Consumer Affairs Division ("Division") discovered the following convictions that Rose failed to disclose in response to Background Question No. 1 on his Application:

a. On March 7, 2007, Rose pled guilty to Minor Visibly Intoxicated/Blood Alcohol Content More than .02%, a Misdemeanor, in violation of § 311.325. The court fined Rose $200.00. *State v. Caleb M. Rose*, St. Charles Co. Cir. Ct., Case No. 0611-CR08421.

b. On April 2, 2008, Rose pled guilty to Minor Visibly Intoxicated/Blood Alcohol Content More than .02%, a Misdemeanor, in violation of § 311.325. The court sentenced Rose to ninety (90) days' confinement, but suspended execution of the sentence and placed him on two years' probation. On July 29, 2009, Rose's probation was revoked and he was sentenced to ninety (90) days' confinement. *State v. Caleb M. Rose*, St. Charles Co. Cir. Ct., Case No. 0711-CR08263.

CONCLUSIONS OF LAW

8. Section 385.209 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:

* * *

(3) Obtained or attempted to obtain a license through material misrepresentation or fraud;

* * *

(5) Been convicted of any felony[.]

9. 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.

10. The Director may refuse to issue a Motor Vehicle Extended Service Contract ("MVESC") producer license to Rose pursuant to § 385.209.1(3) because Rose attempted to obtain a MVESC producer license through material misrepresentation or fraud when he failed to disclose the following convictions on his application:

    a. *State v. Caleb M. Rose*, St. Charles Co. Cir. Ct., Case No. 0611-CR08421 (Minor Visibly Intoxicated/Blood Alcohol Content More than .02%, a Misdemeanor, in violation of § 311.325).

    b. *State v. Caleb M. Rose*, St. Charles Co. Cir. Ct., Case No. 0711-CR08263 (Minor Visibly Intoxicated/Blood Alcohol Content More than .02%, a Misdemeanor, in violation of § 311.325).

11. The Director may refuse to issue a MVESC producer license to Rose pursuant to § 385.209.1(5) because he has been convicted of three felonies:

    a. *State v. Caleb Michael Rose*, St. Charles Co. Cir. Ct., Case No. 0811-CR05312-01 (Sale of Controlled Substance, a Class B Felony, in violation of § 195.211).

    b. *State v. Caleb Michael Rose*, St. Charles Co. Cir. Ct., Case No. 0811-CR05312-01 (Sale of Controlled Substance, a Class B Felony, in violation of § 195.211).

    c. *State v. Caleb Michael Rose*, St. Charles Co. Cir. Ct., Case No. 1111-CR04081-01 (Theft/Stealing of any Controlled Substance as Defined by Section 195.010, a Class C Felony, in violation of § 570.030).

12. The Director has considered Rose's history and all of the circumstances surrounding Rose's Application. Granting Rose 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 Rose.

13. This order refusing to issue an MVESC producer license to Rose is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Caleb Michael Rose** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 3RD **DAY OF** JULY**, 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 8th day of July, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required mail at the following addresses:

Caleb Michael Rose
2212 North Village Drive
St. Charles, Missouri, 63303

Tracking No. 1Z0R15W84299858751

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