FINAL ORDER EFFECTIVE 3-8-2016

State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
CHRISTOPHER WAYNE GRISSUM,	)	**Case No. 151103496C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On January 19, 2016, the Consumer Affairs Division, through counsel, submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract producer license to Christopher Wayne Grissum. 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. Christopher Wayne Grissum ("Grissum") is a Missouri resident with a residential address of 5268 Woodland Road, Washington, Missouri 63090.

2. On August 17, 2015, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Grissum'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. On August 13, 2015, Grissum signed the "Applicant's Certification and Attestation" section under oath before a notary public.

5. Background Question No. 1 of the Application asks:

> 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. Grissum marked "No" to Background Question No. 1 on his Application.

7. Contrary to Grissum's answer to Background Question No. 1 on his Application, the Consumer Affairs Division's ("Division") investigation revealed the following criminal convictions and then pending charge that Grissum failed to disclose:

a. On December 14, 2010, Grissum pled guilty to Resisting/Interfering With Arrest, Detention Or Stop, a Class A Misdemeanor, in violation of § 575.150.[1] The court sentenced Grissum to fifteen days' incarceration and ordered him to pay a $500.00 fine. *State v. Christopher W. Grissum*, Franklin Co. Cir. Ct., Case No. 09AB-CR02799-01.

b. On December 21, 2011, Grissum pled guilty to Pursuing/ Taking/Killed/Possessed Or Disposed Of Wildlife Illegally, a Class A Misdemeanor, in violation of § 252.040. The court ordered Grissum to pay a $227.00 fine. *State v. Christopher W. Grissum*, Franklin Co. Cir. Ct., Case No. 299442.

c. On February 11, 2015, Grissum was charged with Possession Of Up To 35 Grams Marijuana, a Class A Misdemeanor, in violation of § 195.202. On March 13, 2015, an attorney entered his appearance on behalf of Grissum. On August 19, 2015, Grissum pled guilty to the charge. The court suspended imposition of sentence, placed Grissum on two years' unsupervised probation, and ordered him to pay a $116.50 fine. *State v. Christopher W. Grissum*, Franklin Co. Cir. Ct., Case No. 15AB-CR00292.

8. On August 20, 2015, Special Investigator Andrew Engler ("Engler") with the Division sent an inquiry letter to Grissum via first class mail at his residential address of record. The inquiry letter requested, in part, a statement explaining the circumstances surrounding his charges and why he failed to disclose them on his application, and requested certified court records. The inquiry letter further requested his response within twenty days, and warned Grissum that failure to respond could result in the Department refusing to issue him a motor vehicle extended service contract ("MVESC") producer license.

9. The August 20, 2015 inquiry letter sent by first class mail was not returned as undeliverable, and is therefore presumed received by Grissum.

10. Grissum did not respond to the Division's August 20, 2015 inquiry letter, nor did he demonstrate a reasonable justification for the delay.

11. On September 10, 2015, Engler sent a second inquiry letter to Grissum via first class mail to his residential address of record. The inquiry letter asked for the same information previously requested in the August 20, 2015 inquiry letter. The inquiry letter requested his response within twenty days, and again warned Grissum that his failure to respond could result in the Department refusing to issue him a MVESC

[1] All criminal statutory references are to those contained in the version of the Revised Statutes of Missouri under which the court rendered judgment.

producer license.

12. The September 10, 2015 inquiry letter sent by first class mail was not returned as undeliverable, and is therefore presumed received by Grissum.

13. Grissum did not respond to the Division's September 10, 2015 inquiry letter, nor did he demonstrate a reasonable justification for the delay.

14. It is inferable, and hereby found as fact, that Grissum failed to disclose his criminal history in response to Background Question No. 1 on his Application in order to misrepresent to the Director that he had no criminal history and therefore to improve the likelihood that the Director would approve his Application and issue him a MVESC producer license. Grissum retained counsel for his misdemeanor marijuana charge months prior to his Application and where the Application specifically asked Grissum if he was "currently charged with committing a crime" he answered "No" despite the fact that he clearly knew of his pending charges.

CONCLUSIONS OF LAW

15. Section 385.209 RSMo (Supp. 2013)[2] 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[.]

16. Title 20 CSR 100-4.100(2)(A) states, in relevant part,

> Upon receipt of any inquiry from the division, every person shall mail to the division an adequate response to the inquiry within twenty (20)

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

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.

17. Title 20 CSR 100-4.100(2)(A) is a rule of the Director.

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. The Director has cause to refuse to issue a MVESC producer license to Grissum pursuant to § 385.209.1(2) because Grissum twice violated a rule of the Director, namely 20 CSR 100-4.100(2)(A), when he failed to respond to two written inquiries from the Division and failed to demonstrate reasonable justifications for the delays.

20. Each violation of a rule of the Director is a separate and sufficient cause for refusal pursuant to § 385.209.1(2).

21. The Director has cause to refuse to issue a MVESC producer license to Grissum pursuant to § 385.209.1(3) because Grissum attempted to obtain a MVESC producer license through material misrepresentation or fraud when he failed to disclose the following criminal history in response to Background Question No. 1 on his Application:

    a. Resisting/Interfering With Arrest, Detention Or Stop, a Class A Misdemeanor. *State v. Christopher W. Grissum*, Franklin Co. Cir. Ct., Case No. 09AB-CR02799-01.

    b. Pursuing/Taking/Killed/Possessed Or Disposed Of Wildlife Illegally, a Class A Misdemeanor. *State v. Christopher W. Grissum*, Franklin Co. Cir. Ct., Case No. 299442.

    c. Then pending charges for Possession Of Up To 35 Grams Marijuana, a Class A Misdemeanor. *State v. Christopher W. Grissum*, Franklin Co. Cir. Ct., Case No. 15AB-CR00292.

22. Each instance in which Grissum attempted to obtain a license through material misrepresentation or fraud is a separate and sufficient cause for refusal pursuant to § 385.209.1(3).

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

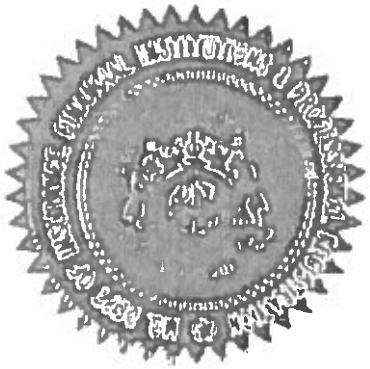
24. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that **Christopher Wayne Grissum's** motor vehicle extended service contract producer license application is hereby **REFUSED.**

SO ORDERED.

WITNESS MY HAND THIS 25th **DAY OF** JANUARY**, 2016.**



JOHN M. HUFF, Director
Missouri Department of Insurance, Financial Institutions and Professional Registration

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 26th day of January 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Christopher Wayne Grissum
5268 Woodland Road
Washington, Missouri 63090

Tracking No. 1Z0R15W84297488217

Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.2619
Facsimile: 573.526.5492
Email: Kathryn.latimer@insurance.mo.gov

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of January 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, Certified Mail, at the following address:

Christopher Wayne Grissum
5268 Woodland Road
Washington, Missouri 63090

Certified No. 7014 2870 0000 5288 7755

Kathryn Latimer

Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.2619
Facsimile: 573.526.5492
Email: Kathryn.latimer@insurance.mo.gov

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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of February, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, first class mail, at the following address:

Christopher Wayne Grissum
5268 Woodland Road
Washington, Missouri 63090

Kathryn Latimer

Kathryn Latimer, Paralegal
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