



State of Missouri

**DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION**

IN RE:

DIAMOND MERCEDES BOYD,
Applicant.

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Case No. 141110730C

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

On December 31, 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 Diamond Mercedes Boyd. 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. Diamond Mercedes Boyd ("Boyd") is a Missouri resident with a residential address of 4245 Westminster, St. Louis, Missouri 63108.
2. On August 19, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Boyd'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. Boyd accepted the "Applicant's Certification and Attestation" section by signing the Application under oath and before a notary public.
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 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”).

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. Boyd answered “No” in response to Background Question No. 1.
7. During its investigation, the Consumer Affairs Division (“Division”) discovered the following criminal history that Boyd failed to disclose on her Application:
 - a. On May 15, 2013, the Boone County prosecutor filed a Substitute Information against Boyd charging her with one (1) count of Theft/Stealing, a Class A Misdemeanor, in violation of § 570.030 RSMo. The Substitute Information incorporated by reference the Probable Cause Statement that alleged that Boyd admitted to stealing \$1,911.40¹ from the University of Missouri Cashier’s Office during her employment with that office.
 - b. On May 15, 2013, Boyd pled guilty to one (1) count of Theft/Stealing, a Class A Misdemeanor, in violation of § 570.030 RSMo. The court suspended the

¹ The Probable Cause Statement also alleged that when confronted, Boyd returned \$120.00 of the stolen amount.

imposition of sentence and placed Boyd on supervised probation for two (2) years. The court further ordered that Boyd pay restitution in the amount of \$1,791.41, complete the STOP program, and complete fifty (50) hours of community service work.

- c. On October 2, 2013, the court converted Boyd's supervised probation to unsupervised probation. Boyd's probation is scheduled to end in May 2015.

State v. Diamond Mercedes Boyd, Boone Co. Cir. Ct., Case No. 12BA-CR00838.

8. On August 26, 2014, after reviewing Boyd's Application and her criminal record, Special Investigator Andrew Engler of the Division sent an inquiry letter to Boyd. Said inquiry letter requested an explanation for Boyd's failure to disclose her criminal history as well as documentation related to Boyd's criminal history. The inquiry letter further requested a response by September 15, 2014, and warned Boyd that a failure to respond could result in the Department refusing to issue her a motor vehicle extended service contract ("MVESC") producer license.
9. The United States Postal Service did not return the August 26, 2014 inquiry letter to the Division as undeliverable, and therefore it is presumed delivered.
10. Boyd failed to provide a written response to the Division's August 26, 2014 inquiry letter by September 15, 2014, and failed to demonstrate a reasonable justification for the delay.
11. On September 15, 2014, Special Investigator Engler sent a second inquiry letter to Boyd. Said inquiry letter requested an explanation for Boyd's failure to disclose her criminal history as well as documentation related to Boyd's criminal history. The inquiry letter further requested a response by October 5, 2014, and warned Boyd that a failure to respond could result in the Department refusing to issue her a MVESC producer license.
12. The United States Postal Service did not return the September 15, 2014 inquiry letter to the Division as undeliverable, and therefore it is presumed delivered.
13. Boyd failed to provide a written response to the Division's September 15, 2014 inquiry letter by October 5, 2014, and failed to demonstrate a reasonable justification for the delay.
14. It is inferable, and is hereby found as fact, that Boyd failed to disclose her misdemeanor suspended sentence on her Application in order to misrepresent to the Director that she had no criminal history, and accordingly, in order to improve the chances that the Director would approve her Application and issue her a MVESC producer license.

CONCLUSIONS OF LAW

15. Section 385.209 RSMo (Supp. 2014)² states, 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;

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

(4) Misappropriated or converted any moneys or properties received in the course of doing business;

* * *

(6) Used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere;

(7) Been found in violation of law by a court of competent jurisdiction in an action instituted by any officer of any state or the United States in any matter involving motor vehicle extended service contracts, financial services, investments, credit, insurance, banking, or finance[.]

16. Title 20 CSR 100-4.100(2)(A), Required Response to Inquiries by the Consumer Affairs Division, 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) 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.

² All statutory references are to the Revised Statutes of Missouri (2000) as updated by the 2014 Supplement, unless otherwise indicated.

17. "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).
18. "A plea of guilty is an admission as to the facts alleged in the information." *Wallace v. State*, 308 S.W.3d 283, 286-87 (Mo. App. S.D. 2010) (internal citation 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 MVESC producer license, but to protect the public.
20. The Director may refuse to issue a MVESC producer license to Boyd under § 385.209.1(2) because Boyd failed to adequately respond to two (2) inquiry letters from the Division and failed to provide a reasonable justification for the delay, thereby violating 20 CSR 100-4.100(2)(A), a rule of the Director.
21. Each violation of a rule of the Director is a separate and sufficient cause for refusal pursuant to § 385.209.1(2).
22. The Director may refuse to issue a MVESC producer license to Boyd under § 385.209.1(3) because Boyd attempted to obtain a MVESC producer license through material misrepresentation or fraud when she failed to disclose the following misdemeanor suspended sentence on her Application:
 - a. *State v. Diamond Mercedes Boyd*, Boone Co. Cir. Ct., Case No. 12BA-CR00838 (Theft/Stealing, a Class A Misdemeanor, in violation of § 577.030 RSMo).
23. The Director may refuse to issue a MVESC producer license to Boyd under § 385.209.1(4) because Boyd misappropriated or converted money received in the course of doing business when she stole \$1,911.40 from the University of Missouri Cashier's Office during her employment with that office.
24. The Director may refuse to issue a MVESC producer license to Boyd under § 385.209.1(6) because Boyd used dishonest practices or demonstrated untrustworthiness in the conduct of business in this state when she stole \$1,911.40 from the University of Missouri Cashier's Office during her employment with that office.
25. The Director may refuse to issue a MVESC producer license to Boyd under § 385.209.1(7) because Boyd has been found in violation of law by a court of competent jurisdiction in an action instituted by an officer of Missouri in any matter involving financial services or finance when she pled guilty to one (1) count of Theft/Stealing, a Class A Misdemeanor, in violation of § 570.030 RSMo, after she stole \$1,911.40 from the University of Missouri Cashier's Office during her employment with that office.

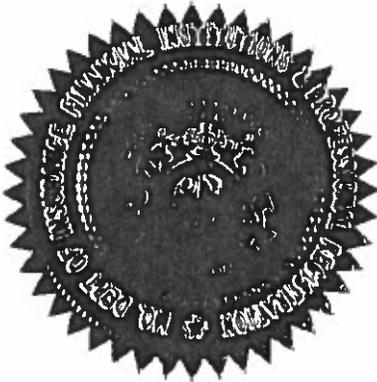
26. The Director has considered Boyd's history and all of the circumstances surrounding Boyd's Application. Granting Boyd a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a MVESC producer license to Boyd.
27.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

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Diamond Mercedes Boyd** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 7TH 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 7th day of January, 2015, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following addresses:

Diamond Mercedes Boyd
4245 Westminster
St. Louis, Missouri 63108

No. 1Z0R15W84297659229


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