



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:

DEANA MARIE EOFF,

Applicant.

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Case No. 140401369C

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On July 17, 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 Deana Marie Eoff. 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. Deana Marie Eoff ("Eoff") is a Missouri resident with a residential address of record of 3614 Dixie Road, St. Ann, Missouri 63074.
2. On September 13, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Eoff's Application for Motor Vehicle Extended Service Contract Producer License ("2013 Application").
3. On February 19, 2014, the Director of the Department entered an Order Refusing to Issue Motor Vehicle Extended Service Contract Producer License ("Order"), refusing Eoff's 2013 Application pursuant to § 385.209.1(2) and (3) after Eoff failed to disclose her pending criminal charges and failed to respond to two (2) separate inquiry letters from the Division, dated September 24, 2013 and October 15, 2013. *In re: Deana Marie Eoff*, DIFP Case No. 140115058C.
4. A copy of the Order was delivered by United Parcel Service at Eoff's St. Ann address on March 13, 2014. A second copy of the Order was sent to Eoff's St. Ann address via first class mail on March 20, 2014. The Order sent via first class mail was not returned, and therefore is presumed delivered. *Id.*

5. Eoff did not appeal the Director's Order and her time to do so has expired. Therefore, the Director's Order is final.
6. On March 14, 2014, the Department received from Eoff another Application for Motor Vehicle Extended Service Contract Producer License ("2014 Application").
7. By signing the 2014 Application on or about March 12, 2014, Eoff attested and certified that "all of the information submitted in this application and attachments is true and complete."
8. Background Question No. 1 of the 2014 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[.]

9. Eoff answered "No" to Question No. 1. Eoff did not disclose any criminal history in her 2014 Application.
10. Contrary to Eoff's "No" answer to Question No. 1, the Consumer Affairs Division's investigation of Eoff's 2014 Application revealed that on or about May 9, 2013, Eoff was charged by Information in the Circuit Court of Crawford County, Missouri, with Possession of Up to 35 Grams of a Synthetic Cannabinoid, a Class A Misdemeanor, in violation § 195.202 RSMo (Supp. 2012), and Unlawful Use of Drug Paraphernalia, a Class A Misdemeanor, in violation of § 195.233 RSMo (Supp. 2012). On June 13, 2014, Eoff pled guilty to Unlawful Use of Drug Paraphernalia, a Class A Misdemeanor, in violation of § 195.233 RSMo (Supp. 2012). The court suspended the imposition of sentence and placed Eoff on supervised probation for one (1) year. *State v. Deana M. Eoff*, Crawford Co. Cir. Ct., Case No. 13CF-CR00439.
11. When Eoff submitted her 2014 Application, disposition of case number 13CF-CR00439 was still pending with a warrant for Eoff's arrest. *Id.*
12. It is inferable that Eoff falsely answered "No" to Question No. 1 and failed to disclose her charges of the Class A Misdemeanor of Possession of Up to 35 Grams of a Synthetic Cannabinoid and the Class A Misdemeanor of Unlawful Use of Drug Paraphernalia in her 2014 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 2014 Application and issue her a motor vehicle extended service contract ("MVESC") producer license.
13. Any claim by Eoff that she did not know of the criminal charges when she submitted her 2014 Application is not plausible because a Missouri State Highway patrolman issued and Eoff received two citations for the violations of §§ 195.202 and 195.233.

CONCLUSIONS OF LAW

14. Section 385.209 RSMo (Supp. 2013)¹ 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:

¹ All statutory references are to RSMo (2000) as updated by RSMo (Supp. 2013) unless otherwise noted.

* * *

(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;

* * *

(9) Been refused a license or had a license revoked or suspended by a state regulator of service contracts, financial services, investments, credit, insurance, banking, or finance[.]

15. 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.

16. "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).

17. 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 MVEESC producer license, but to protect the public.

18. The Director also may refuse to issue a MVESC producer license to Eoff under § 385.209.1(2) because Eoff violated a rule of the Director, in that she failed to adequately respond to two written inquiries from the Consumer Affairs Division—mailed on September 24, 2013 and October 15, 2013—without demonstrating a reasonable justification for either of her failures to respond, each time thereby violating regulation 20 CSR 100-4.100(2), which is a rule of the Director. *In re: Deana Marie Eoff*, DIFP Case No. 140115058C.
19. Each failure to provide an adequate response and failure to provide a reasonable justification for the delay is a separate and sufficient cause for refusal under § 385.209.1(2).
20. The Director may refuse to issue a MVESC producer license to Eoff under § 385.209.1(3) because Eoff attempted to obtain a MVESC producer license through material misrepresentation or fraud when she falsely answered “No” to Question No. 1 on her 2014 Application and failed to disclose the following charges that were pending against her at the time of her 2014 Application:
 - a. *State v. Deana M. Eoff*, Crawford Co. Cir. Ct., Case No. 13CF-CR00439 (Possession of Up to 35 Grams of a Synthetic Cannabinoid, a Class A Misdemeanor, in violation of § 195.202 RSMo (Supp. 2012)); and
 - b. *State v. Deana M. Eoff*, Crawford Co. Cir. Ct., Case No. 13CF-CR00439 (Unlawful Use of Drug Paraphernalia, a Class A Misdemeanor, in violation of § 195.233 RSMo (Supp. 2012)).
21. Eoff falsely answered “No” to Question No. 1 on her 2014 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 2014 Application and issue her a MVESC producer license.
22. Each attempt to obtain a license through material misrepresentation or fraud is a separate and sufficient cause for refusal under § 385.209.1(3).
23. The Director may also refuse to issue a MVESC producer license to Eoff under § 385.209.1(9) because Eoff has been refused a license by a state regulator of service contracts. *In re: Deana Marie Eoff*, DIFP Case No. 140115058C.
24. The Director has considered Eoff’s history and all of the circumstances surrounding Eoff’s 2014 Application. Granting Eoff 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 Eoff.

25. This order is in the public interest.

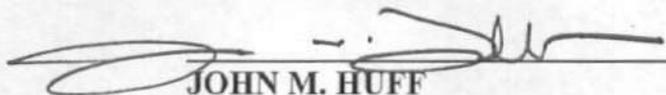
ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Deana Marie Eoff** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 18TH DAY OF JULY, 2014.





JOHN M. HUFF
DIRECTOR

NOTICE

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

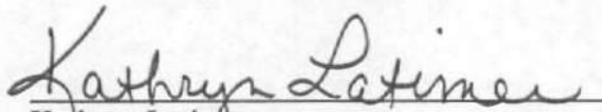
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 23rd day of July, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following:

Deana Marie Eoff
3614 Dixie Road
Saint Ann, MO 63074

Tracking No. 1Z0R15W84294174463



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