State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
SCOTT RUSSEL GRANDEN,	)	**Case No. 12-0416379C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On June 29, 2012, 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 Scott Russel Granden. 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. Scott Russel Granden, ("Granden") is currently a Missouri resident with a residential address of 23 Willow Way, St. Charles, Missouri 63304.

2. On December 5, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Granden'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. Granden 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 judgment 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 or 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 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").

   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 judgment[.]

6. Granden marked "Yes" to Question No. 1, and included a written statement, but no related court documents, for the following cases:

   a. On September 13, 2005, Granden pleaded guilty to Distribute/Deliver/ Manufacture/Produce or Attempt To Or Possess With Intent To Distribute/ Deliver/Manufacture/Produce A Controlled Substance, a Class B Felony, in violation of § 195.211. The court sentenced Granden to five (5) years' confinement, but suspended the execution of sentence and placed Granden on supervised probation for five (5) years. On September 21, 2007, Granden's probation was revoked and he was sentenced to five (5) years' confinement, said sentence was ordered to be served concurrent with the sentence entered in case number 0711-CR04659-01. *State of Missouri v. Scott Russel Granden*, St. Charles Co. Cir. Ct., Case No. 0511-CR01669.

b. On September 21, 2007, Granden pleaded guilty to Assault – 2nd Degree, a Class C Felony, in violation of § 565.060. The court sentenced Granden to six (6) years' confinement, said sentence ordered to be served concurrent with the sentence entered in case number 0511-CR01669. *State of Missouri v. Scott R. Granden*, St. Charles Co. Cir. Ct., Case No. 0711-CR04659-01.

7. On January 13, 2012, the Consumer Affairs Division ("Division") sent a letter to Granden requesting written descriptions and certified copies of court records for case numbers 04CR126539 and 0611-CR04968. In response, Granden provided a written description regarding the two cases but did not provide any certified copies of court records. However, through their investigation, the Division discovered the following:

a. On June 28, 2006, Granden pleaded guilty to Passing Bad Check – Less Than $500, a Class A Misdemeanor, in violation of § 570.120. The court imposed a monetary fine. *State of Missouri v. Scott R. Granden*, St. Charles Co. Cir. Ct., Case No. 04CR126539.

b. On March 8, 2007, Granden pleaded guilty to Violation Of Order Of Protection For Adult, a Class A Misdemeanor, in violation of § 455.085. The court sentenced Granden to thirty (30) days' confinement. *State of Missouri v. Scott Russel Granden*, St. Charles Co. Cir. Ct., Case No. 0611-CR04968.

CONCLUSIONS OF LAW

8. Section 385.209 RSMo (Supp. 2011)[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:
>
> * * *
>
> (3) Obtained or attempted to obtain a license through material misrepresentation or fraud;
>
> * * *
>
> (5) Been convicted of any felony[.]

[1] All statutory references are to RSMo (2000) as updated by RSMo (Supp. 2011) unless otherwise noted.

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. Granden may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(3) because he attempted to obtain a license through material misrepresentation or fraud when he did not disclose the following convictions on his application:

    a. *State of Missouri v. Scott R. Granden*, St. Charles Co. Cir. Ct., Case No. 04CR126539 (Passing Bad Check – Less Than $500, a Class A Misdemeanor, in violation of § 570.120).

    b. *State of Missouri v. Scott Russel Granden*, St. Charles Co. Cir. Ct., Case No. 0611-CR04968 (Violation Of Order Of Protection For Adult, a Class A Misdemeanor, in violation of § 455.085).

11. Each attempt to obtain a license through material misrepresentation or fraud is a separate and sufficient cause to refuse Granden's license pursuant to § 385.209.1(3).

12. Granden may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(5) because he has been convicted of two felonies:

    a. *State of Missouri v. Scott Russel Granden*, St. Charles Co. Cir. Ct., Case No. 0511-CR01669 (Distribute/Deliver/Manufacture/Produce or Attempt To Or Possess With Intent To Distribute/Deliver/Manufacture/Produce A Controlled Substance, a Class B Felony, in violation of § 195.211).

    b. *State of Missouri v. Scott R. Granden*, St. Charles Co. Cir. Ct., Case No. 0711-CR04659-01 (Assault – 2nd Degree, a Class C Felony, in violation of § 565.060).

13. Each felony conviction is a separate and sufficient cause to refuse Granden's license pursuant to § 385.209.1(5).

14. The Director has considered Granden's history and all of the circumstances surrounding Granden's Application. Granting Granden a motor vehicle extended service contract producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse Granden's motor vehicle extended service contract producer license.

15. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Scott Russel Granden** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 2ND **DAY OF** JULY**, 2012.**

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 5th day of July, 2012 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular and certified mail at the following address:

Scott Russel Granden
23 Willow Way
St. Charles, MO 63304

Certified No. 7009 3410 0001 8931 3360

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