State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
IDELLA PHILLIPS,	)	**Case No. 120409368C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On May 17, 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 Idella Phillips. 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:

FACTUAL BACKGROUND

1. Idella Phillips ("Phillips"), also known as Idella Bass, is currently a Missouri resident with a residential address of 758 Del Ray Drive, St. Peters, Missouri 63376.

2. On December 29, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Phillips'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. Phillips 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. Phillips marked "Yes" to Question No. 1, and included two attachments, to wit:

   a. The first attachment to her Application is a letter from Phillips dated December 27, 2011, that acknowledges that she had a "bad check charge" but does not specify a case number.

   b. The second attachment is a Circuit Court Docket Sheet for Case Number 11R019700267-01 that shows that on or about June 13, 1997, Phillips pled guilty to Passing a Bad Check of $150.00 or More – Insufficient Funds/No Account, a Class D Felony, in violation of § 570.120. The court sentenced Phillips to five years' confinement, but suspended the imposition of the sentence. The court also placed Phillips on supervised probation for five years, which was revoked on or about December 14, 1998, with her sentence to be served consecutive to CR198-521FX and CR198-2008FX, but concurrent with CR197-790FX. *State of Missouri v. Idella Bass Phillips*, St. Charles Co. Cir. Ct., Case No. 11R019700267-01.

7. During its investigation, the Department also discovered the following felony convictions that Phillips failed to disclose in response to Background Question No. 1 on her Application:

a. On March 27, 1998, Phillips pled guilty to two counts of Passing a Bad Check of $150.00 or More – Insufficient Funds/No Account, both Class D Felonies, and both in violation of § 570.120. Count 1 of the Indictment charged Phillips with issuing a check with the purpose to defraud in the amount of $305.19, made payable to Sears in Chesterfield, Missouri on December 17, 1996. Count 2 of the Indictment charged Phillips with issuing a check with the purpose to defraud in the amount of $193.96, made payable to Sears in the Chesterfield, Missouri on December 14, 1996. The court sentenced Phillips to three years' confinement for each count, but suspended the imposition of both sentences. The court also placed Phillips on supervised probation for three years for each count, which was revoked on or about May 23, 2000. *State of Missouri v. Idella Phillips*, St. Louis Co. Cir. Ct., Case No. 2197R-02622-01.

b. On December 14, 1998, Phillips pled guilty to Passing Bad Checks, a Class D Felony, in violation of § 570.120. The Information charged Phillips with issuing a check with the purpose to defraud in the amount of $80.00, made payable to Drury Inn St. Peters in St. Peters, Missouri on November 9, 1996. The court revoked Phillips's probation and sentenced Phillips to five years' confinement. The court further ordered that said sentence be served consecutive to CR198-521FX and CR198-2008FX, but concurrent with CR197-790FX. *State of Missouri v. Idella B. Phillips*, St. Charles Co. Cir. Ct., Case No. CR197-267FX.

c. On December 14, 1998, Phillips pled guilty to Passing Bad Checks, a Class D Felony, in violation of § 570.120. The Information charged Phillips with issuing a check with the purpose to defraud in the amount of $73.42, made payable to GNC in St. Charles, Missouri on March 5, 1997. The court revoked Phillips's probation and sentenced Phillips to five years' confinement. The court further ordered that said sentence be served consecutive to CR198-521FX and CR198-2008FX, but concurrent with CR197-267FX. *State of Missouri v. Idella B. Phillips*, St. Charles Co. Cir. Ct., Case No. CR197-790FX.

d. On December 14, 1998, Phillips pled guilty to Stealing – Prior and Persistent Offender, a Class C Felony, in violation of § 570.030. The Information charged Phillips with appropriating the following items without the consent of the owner: a Master Card, an Amoco Card, a value of at least one hundred fifty dollars ($150.00) cash, and a wallet. The court sentenced Phillips to five years' confinement, with said sentence to be served consecutive to CR197-267FX and CR197-790FX, but concurrent with CR198-2008FX. *State of Missouri v. Idella B. Phillips*, St. Charles Co. Cir. Ct., Case No. CR198-521FX.

e. On December 14, 1998, Phillips pled guilty to Stealing – Prior and Persistent Offender, a Class C Felony, in violation of § 570.030. The Information charged Phillips with appropriating a Visa credit card without the consent of the owner. The court sentenced Phillips to five years' confinement, with said sentence to be served consecutive to CR197-267FX and CR197-790FX, but concurrent with

CR198-521FX. *State of Missouri v. Idella B. Phillips*, St. Charles Co. Cir. Ct., Case No. CR198-2008FX.

8. During its investigation, the Department also discovered the following misdemeanor convictions that Phillips failed to disclose in response to Background Question No. 1 on her Application:

   a. On March 20, 1986, Phillips pled guilty to Stealing, a Class A Misdemeanor, in violation of § 570.030. The court sentenced Phillips to one year confinement, but suspended the execution of sentence. The court also placed Phillips on unsupervised probation for two years. *State of Missouri v. Idella Bass*, St. Charles Co. Cir. Ct., Case No. CR186-82M.

   b. On January 5, 1998, Phillips pled guilty to three counts of Passing a Bad Check, all Class A Misdemeanors, and all in violation of § 570.120. Count I of the Information charged Phillips with issuing a check with the purpose to defraud, made payable to Kroger in Warren County, Missouri on September 18, 1996. Count II of the Information charged Phillips with issuing a check with the purpose to defraud, made payable to Kroger in Warren County, Missouri on September 18, 1996. Phillips was assessed fines for each conviction. *State of Missouri v. Idella B. Phillips*, Warren Co. Cir. Ct., Case No. 12R059600277.

   c. On January 5, 1998, Phillips pled guilty to Passing a Bad Check, a Class A Misdemeanor, in violation of § 570.120. The Information charged Phillips with issuing a check with the purpose to defraud, made payable to Boonetrail IGA in Warren County, Missouri on September 18, 1996. Phillips was assessed fines. *State of Missouri v. Idella Bass Phillips*, Warren Co. Cir. Ct., Case No. 12R059700111.

9. Background Question No. 4 of the Application asks, in relevant part: "Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?"

10. Phillips did not respond to Background Question No. 4.

11. On April 9, 2012, the St. Charles County Circuit Court certified a tax lien against Phillips as follows:

> [Department of Revenue] hereby certifies that the following assessment of individual income tax, interest, additions to tax, penalties, and fees have been made and become final in the amount of $605.88. Interest continues to [accrue] as provided by law until the full amount of the tax liability is paid.

Department of Revenue v. Idella B. Phillips, St. Charles Co. Cir. Ct., Case No. 1211-MC02757.

JURISDICTION AND STATUTORY GROUNDS FOR REFUSAL

12. Section 385.209 RSMo (Supp. 2011) 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:
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> * * *
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> (3) Obtained or attempted to obtain a license through material misrepresentation or fraud;
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> * * *
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> (5) Been convicted of any felony;
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> * * *
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> (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;
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> * * *
>
> (13) Failed to comply with any administrative or court order directing payment of state or federal income tax[.]

13. 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.

CAUSE FOR ORDER TO REFUSE A MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

14. Phillips may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(3) because she attempted to obtain a license through material misrepresentation or fraud when she failed to disclose the following felony and

misdemeanor convictions in response to Background Question No. 1 on her Application:

a. *State of Missouri v. Idella Phillips*, St. Louis Co. Cir. Ct., Case No. 2197R-02622-01 (Two Counts of Passing a Bad Check of $150.00 or More – Insufficient Funds/No Account, both Class D Felonies, both in violation of § 570.120).

b. *State of Missouri v. Idella B. Phillips*, St. Charles Co. Cir. Ct., Case No. CR197-267FX (Passing Bad Checks, a Class D Felony, in violation of § 570.120).

c. *State of Missouri v. Idella B. Phillips*, St. Charles Co. Cir. Ct., Case No. CR197-790FX (Passing Bad Checks, a Class D Felony, in violation of § 570.120).

d. *State of Missouri v. Idella B. Phillips*, St. Charles Co. Cir. Ct., Case No. CR198-521FX (Stealing – Prior and Persistent Offender, a Class C Felony, in violation of § 570.030).

e. *State of Missouri v. Idella B. Phillips*, St. Charles Co. Cir. Ct., Case No. CR198-2008FX (Stealing – Prior and Persistent Offender, a Class C Felony, in violation of § 570.030).

f. *State of Missouri v. Idella Bass*, St. Charles Co. Cir. Ct., Case No. CR186-82M (Stealing, a Class A Misdemeanor, in violation of § 570.030).

g. *State of Missouri v. Idella B. Phillips*, Warren Co. Cir. Ct., Case No. 12R059600277 (Three Counts of Passing a Bad Check, all Class A Misdemeanors, and all in violation of § 570.120).

h. *State of Missouri v. Idella Bass Phillips*, Warren Co. Cir. Ct., Case No. 12R059700111 (Passing a Bad Check, a Class A Misdemeanor, in violation of § 570.120).

15. Phillips may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(3) because she attempted to obtain a license through material misrepresentation or fraud when she failed to respond to Background Question No. 4 regarding her tax liability and failed to disclose her tax liability. *Department of Revenue v. Idella B. Phillips*, St. Charles Co. Cir. Ct., Case No. 1211-MC02757.

16. Each attempt to obtain a license through material misrepresentation or fraud is a separate and sufficient cause for discipline pursuant to § 385.209.1(3).

17. Phillips may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(5) because she has been convicted of felonies, to wit:

a. *State of Missouri v. Idella Bass Phillips*, St. Charles Co. Cir. Ct., Case No. 11R019700267-01 (Passing a Bad Check of $150.00 or More – Insufficient

Funds/No Account, a Class D Felony, in violation of § 570.120).

b. *State of Missouri v. Idella Phillips*, St. Louis Co. Cir. Ct., Case No. 2197R-02622-01 (Two Counts of Passing a Bad Check of $150.00 or More – Insufficient Funds/No Account, both Class D Felonies, both in violation of § 570.120).

c. *State of Missouri v. Idella B. Phillips*, St. Charles Co. Cir. Ct., Case No. CR197-267FX (Passing Bad Checks, a Class D Felony, in violation of § 570.120).

d. *State of Missouri v. Idella B. Phillips*, St. Charles Co. Cir. Ct., Case No. CR197-790FX (Passing Bad Checks, a Class D Felony, in violation of § 570.120).

e. *State of Missouri v. Idella B. Phillips*, St. Charles Co. Cir. Ct., Case No. CR198-521FX (Stealing – Prior and Persistent Offender, a Class C Felony, in violation of § 570.030).

f. *State of Missouri v. Idella B. Phillips*, St. Charles Co. Cir. Ct., Case No. CR198-2008FX (Stealing – Prior and Persistent Offender, a Class C Felony, in violation of § 570.030).

18. Each felony conviction is a separate and sufficient cause for discipline pursuant to § 385.209.1(5).

19. Phillips may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(7) because she has been found in violation of law by a court of competent jurisdiction in a matter involving credit, to wit:

a. In Case No. CR198-521FX, Phillips pled guilty to Stealing – Prior and Persistent Offender, a Class C Felony, in violation of § 570.030. The Information charged Phillips with appropriating the following items without the consent of the owner: a Master Card, an Amoco Card, a value of at least one hundred fifty dollars ($150.00) cash, and a wallet. *State of Missouri v. Idella B. Phillips*, St. Charles Co. Cir. Ct., Case No. CR198-521FX.

b. In Case No. CR198-2008FX, Phillips pled guilty to Stealing – Prior and Persistent Offender, a Class C felony, in violation of § 570.030. The Information charged Phillips with appropriating a Visa credit card without the consent of the owner. *State of Missouri v. Idella B. Phillips*, St. Charles Co. Cir. Ct., Case No. CR198-2008FX.

20. Each instance of Phillips being found in violation of a law by a court of competent jurisdiction in a matter involving credit is a separate and sufficient cause for discipline pursuant to § 385.209.1(7).

21. Phillips may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(13) because she failed to comply with an administrative or court order directing payment of state income tax. *Department of Revenue v. Idella B. Phillips*, St. Charles Co. Cir. Ct., Case No. 1211-MC02757.

22. The Director has considered Phillips' history and all of the circumstances surrounding Phillips' Application. Granting Phillips 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 to issue Phillips a motor vehicle extended service contract producer license.

23. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service producer license application of **IDELLA PHILLIPS** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 18TH **DAY OF** MAY**, 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 21st day of May, 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:

Idella Phillips
758 Del Ray Drive
St. Peters, MO 63376

Certified No. 7009 3410 0001 8931 3124

Kathryn Randolph

Kathryn Randolph, 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.randolph@insurance.mo.gov