State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
JOSHUA DAVID THERRIEN,	)	**Case No. 160606298C**
	)	
Applicant.	)	

ORDER REFUSING TO RENEW MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On June 30, 2016, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse to renew Joshua David Therrien's motor vehicle extended service contract producer license. 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. Joshua David Therrien ("Therrien") is a Missouri resident with a residential address of 510 Muirfield Drive, St. Charles, Missouri, 63304.

2. On July 1, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Therrien's completed Application for Motor Vehicle Extended Service Contract Producer License ("2014 Application").

3. The "Applicant's Certification and Attestation" section of the 2014 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. Therrien signed the "Applicant's Certification and Attestation" section of the 2014 Application under oath before a notary public.

5. 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 imposition 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 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. Therrien answered "Yes" in response to Background Question No. 1 on the 2014 Application.

7. Along with his 2014 Application, Therrien submitted a letter and court documents explaining his response to Background Question No. 1. Therrien's attachments disclosed the following criminal history:

   a. On July 1, 2013, Therrien pled guilty to and was convicted of two (2) counts of Assault 3rd Degree, each a Class A Misdemeanor, in violation of § 565.070,[1] one (1) count of Resisting/Interfering With Arrest, Detention Or Stop, a Class A Misdemeanor, in violation of § 575.150, and one (1) count of Assault on a Law

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

Enforcement Officer, a Class A Misdemeanor, in violation of § 565.083. *State v. Joshua D. Therrien,* St. Charles Co. Cir. Ct., Case No. 1211-CR02684. The court sentenced Therrien to 180 days' confinement but suspended the execution of his sentence, ordering Therrien complete two (2) years' probation. *Id.*

b. On June 12, 2013, Therrien was charged with two counts of Possession of a Controlled Substance, each a Class C Felony, in violation of § 195.202. *State v. Joshua David Therrien*, St. Charles Co. Cir. Ct., Case No. 1311-CR03426.[2]

8. Relying on Therrien's responses on his 2014 Application and attachments, the Department issued Therrien a motor vehicle extended service contract ("MVESC") producer license (License No. 8088067) on July 9, 2014,[3] which is set to expire on July 8, 2016.

9. On April 18, 2016, the Department received Therrien's Application for Motor Vehicle Extended Service Contract Producer License Renewal ("2016 Application").

10. The "Applicant's Certification and Attestation" section of the 2016 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.

11. Therrien signed the "Applicant's Certification and Attestation" section of the 2016 Application under oath before a notary public.

12. Background Question No. 1 of the 2016 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, which has not been previously reported to this insurance department?
>
> "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

[2] Charges in *State v. Joshua David Therrien*, St. Charles Co. Cir. Ct., 1311-CR03426, would later be dropped.

[3] Therrien's MVESC producer license was first issued on January 1, 2012. Because that license expired on December 31, 2013, Therrien's 2014 Application was an application for a new license. *See* § 385.206.6 RSMo (Supp. 2013).

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.

13. Therrien answered "No" in response to Background Question No. 1 of the 2016 Application.

14. Contrary to Therrien's response to Background Question No. 1 of his 2016 Application, an investigation conducted by the Consumer Affairs Division ("Division") of the Department revealed that Therrien failed to disclose the following criminal history:

    a. On May 19, 2015, Therrien pled guilty to and was convicted of DWI — Alcohol—Persistent Offender, a Class D Felony, in violation of § 577.010. The court sentenced Therrien to three (3) years' incarceration but suspended the execution of his sentence, ordering Therrien complete five (5) years' supervised probation. *State v. Joshua David Therrien*, St. Charles Co. Cir. Ct., Case No. 1511-CR01638.

    b. On May 19, 2015, Therrien pled guilty to Leaving the Scene of a Motor Vehicle Accident, a Class D Felony, in violation of § 577.060. The court suspended imposition of Therrien's sentence, ordering Therrien complete five (5) years' supervised probation. *Id.*

15. On May 2, 2016, Special Investigator Sheri Sloan ("Sloan"), with the Division, sent an inquiry letter to Therrien, asking for a statement explaining the disposition of charges disclosed on his 2014 Application, and why he failed to disclose *State v.*

Joshua David Therrien, St. Charles Co. Cir. Ct., Case No. 1511-CR01638 in response to Background Question No. 1 on his 2016 Application.

16. Therrien responded on May 25, 2016, explaining that charges in *State v. Joshua David Therrien*, St. Charles Co. Cir. Ct., Case No. 1311-CR03426 were "rolled into DWI/Drug Court which falls under case number 1511-CR01638" which he failed to disclose on his 2016 Application because "[o]n the reinstatement application it said D.W.I.'s were not or did not have to be reported." Therrien further stated that he "did not knowingly or willingly try and withhold this information."

17. Therrien was arraigned in *State v. Joshua David Therrien*, St. Charles Co. Cir. Ct., Case No. 1511-CR01638 on April 28, 2015.

18. Although Therrien was a licensed MVESC producer at the time of his arraignment, he did not report the felony prosecution to the Director within thirty (30) days of his arraignment. In fact, Therrien did not disclose the felony charges to the Director until his letter of May 25, 2016.

19. It is inferable, and hereby found as fact, that Therrien failed to disclose his felony conviction and his suspended imposition of sentence in *State v. Joshua David Therrien*, St. Charles Co. Cir. Ct., Case No. 1511-CR01638 in response to Background Question No. 1 on his 2016 Application in order to misrepresent to the Director that he had not accumulated any new criminal history since his 2014 Application, and in order to hide the fact that he failed to report his arraignment for two (2) felony charges and consequently to improve the chances that the Director would approve his 2016 Application and renew his MVESC producer license. Therrien's explanation for his failure to disclose is not credible. The instructions included in Background Question No. 1of the 2016 Application make it clear that felony DWI convictions and suspended impositions of sentences must be disclosed on the Application unless previously reported.

CONCLUSIONS OF LAW

20. Section 385.209[4] 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:
>
> * * *

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

(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; [or]

* * *

(5) Been convicted of any felony[.]

* * *

7. Within thirty days of the initial pretrial hearing date or arraignment, a producer shall report to the director any felony proceeding initiated by any state or the United States for any violation of law by the producer. The report shall include a copy of the indictment or information filed, the order resulting from the hearing and any other relevant legal documents.

21. The Director may refuse to renew Therrien's MVESC producer license pursuant to § 385.209.1(2) because Therrien violated a provision in §§ 385.200 to 385.220, namely § 385.209.7, when he failed to report the following felony proceeding to the Director within thirty (30) days of the arraignment:

    a. Therrien was charged with DWI — Alcohol — Persistent Offender, a Class D Felony, and Leaving the Scene of a Motor Vehicle Accident, a Class D Felony, in *State v. Joshua David Therrien*, St. Charles Co. Cir. Ct., Case No. 1511-CR01638.

22. The Director may refuse to renew Therrien's MVESC producer license pursuant to § 385.209.1(3) because Therrien attempted to obtain a license through material misrepresentation or fraud when he failed to disclose the following in response to Background Question No. 1 on his 2016 Application:

    a. Suspended Execution of Sentence for DWI — Alcohol — Persistent Offender, a Class D Felony. *State v. Joshua David Therrien*, St. Charles Co. Cir. Ct., Case No. 1511-CR01638.

    b. Suspended Imposition of Sentence for Leaving the Scene of a Motor Vehicle Accident, a Class D Felony. *Id.*

23. The Director may refuse to renew Therrien's MVESC producer license pursuant to § 385.209.1(5) because Therrien has been convicted a felony:

    a. DWI — Alcohol — Persistent Offender, a Class D Felony. *State v. Joshua David Therrien*, St. Charles Co. Cir. Ct., Case No. 1511-CR01638.

24. The Director has considered Therrien's history and all of the circumstances surrounding Therrien's 2016 Application, and exercises his discretion to refuse to renew Therrien's MVESC producer license.

25. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that **Joshua David Therrien's** Application for Motor Vehicle Extended Service Contract Producer License Renewal of is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 30th **DAY OF** JUN/2, **2016.**

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 1st day of July, 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:

Joshua David Therrien
510 Muirfield Drive
St. Charles, Missouri, 63304

Tracking No. 1Z0R15W84295213294

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