FINAL ORDER EFFECTIVE 03-17-16

State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
JEFFREY ALLEN JACKSON,	)	**Case No. 151201531C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On January 25, 2016, the Consumer Affairs Division, through counsel, submitted a Petition to the Director alleging cause to refuse to issue a motor vehicle extended service contract producer license to Jeffrey Allen Jackson. 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. Jeffrey Allen Jackson ("Jackson") is a Missouri resident with a residential and mailing address of 16153 Country Cove St., Wright City, Missouri 63390.

2. On September 4, 2015, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Jackson'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. On August 20, 2015, Jackson signed the "Applicant's Certification and Attestation" section under oath before a notary public.

5. Background Question No. 1 of the Application asks:

   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.

6. Jackson marked "No" to Background Question No. 1 on his Application.

7. Contrary to Jackson's answer to Background Question No. 1 on his Application, the Consumer Affairs Division's ("Division") investigation revealed the following criminal history that Jackson failed to disclose:

   a. On March 2, 2010, Jackson pled guilty to Distribution/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.[1] The court suspended the imposition of

[1] All criminal statutory references are to those contained in the version of the Revised Statutes of Missouri at the time of Jackson's guilty pleas.

sentence and placed Jackson on five (5) years' supervised probation. *State v. Jeffery Allen Jackson*, Warren Co. Cir. Ct., Case No. 09BB-CR01032-01.[2]

b. On March 2, 2010, Jackson pled guilty to Unlawful Use of Drug Paraphernalia, a Class A Misdemeanor, in violation of § 195.233. The court suspended the imposition of sentence and placed Jackson on two (2) years' supervised probation. *State v. Jeffery Allen Jackson*, Warren Co. Cir. Ct., Case No. 09BB-CR01046.[3]

8. On September 10, 2015, Special Investigator Andrew Engler ("Engler") with the Division sent an inquiry letter to Jackson via first class mail at his residential and mailing address of record. The inquiry letter requested a statement explaining the circumstances surrounding his criminal charges and why he failed to disclose them on his application, and requested a certified copy of the Information, Complaint, Judgment, or other charging document in the criminal matters. The inquiry letter further cited 20 CSR 100-4.100, requested a response within twenty (20) days, and warned Jackson that failure to respond could result in refusal to issue his motor vehicle extended service contract ("MVESC") producer license.

9. The September 10, 2015 inquiry letter sent by first class mail was not returned as undeliverable, and is therefore presumed received by Jackson.

10. Jackson did not respond to the Division's September 10, 2015 inquiry letter, nor did he demonstrate a reasonable justification for the delay.

11. On September 30, 2015, Engler sent a second inquiry letter to Jackson via first class mail to his residential and mailing address of record. The inquiry letter asked for the same information and documentation previously requested in the September 10, 2015 inquiry letter. The inquiry letter again cited 20 CSR 100-4.100, requested a response within twenty days, and warned Jackson that a failure to respond could result in refusal to issue his MVESC producer license.

12. The September 30, 2015 inquiry letter sent by first class mail was not returned as undeliverable, and is therefore presumed received by Jackson.

13. Jackson did not respond to the Division's September 30, 2015 inquiry letter, nor did he demonstrate a reasonable justification for the delay.

14. It is inferable, and hereby found as fact, that Jackson failed to disclose his criminal history in response to Background Question No. 1 on his Application in order to misrepresent to the Director that he had no criminal history and therefore to improve the likelihood that the Director would approve his Application and issue him a MVESC producer license.

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[2] Misspelling of Jackson's name appears in original court records.
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CONCLUSIONS OF LAW

15. Section 385.209 RSMo (Supp. 2013)[4] provides, 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; [or]
>
> (3) Obtained or attempted to obtain a license through material misrepresentation or fraud[.]

16. Title 20 CSR 100-4.100(2)(A) states:

> 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.

17. Title 20 CSR 100-4.100 is a rule of the Director.

18. "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).

19. The Director has cause to refuse to issue a MVESC producer license to Jackson pursuant to § 385.209.1(2) because Jackson twice violated a rule of the Director, namely 20 CSR 100-4.100(2)(A), when he failed to respond to two (2) written inquiries from the Division and failed to demonstrate reasonable justifications for the delays.

20. Each violation of a rule of the Director is a separate and sufficient cause for refusal pursuant to § 385.209.1(2).

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

21. The Director has cause to refuse to issue a MVESC producer license to Jackson pursuant to § 385.209.1(3) because Jackson attempted to obtain a MVESC producer license through material misrepresentation or fraud when he failed to disclose the following criminal history in response to Background Question No. 1 on his Application:

   a. Distribution/Deliver/Manufacture/Produce Or Attempt To Or Possess With Intent To Distribute/Deliver/Manufacture/Produce A Controlled Substance, a Class B Felony. *State v. Jeffery Allen Jackson*, Warren Co. Cir. Ct., Case No. 09BB-CR01032-01.

   b. Unlawful Use of Drug Paraphernalia, a Class A Misdemeanor. *State v. Jeffery Allen Jackson*, Warren Co. Cir. Ct., Case No. 09BB-CR01046.

22. Each failure to disclose a criminal charge in response to Background Question No. 1 is a separate and sufficient cause for refusal pursuant to § 385.209.1(3).

23. By being untruthful on his Application and failing to respond to inquiries from the Division, Jackson has shown a disregard for the regulator from whom he seeks a license.

24. The Director has considered Jackson's history and all of the circumstances surrounding Jackson's Application. Granting Jackson a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to issue a MVESC producer license to Jackson.

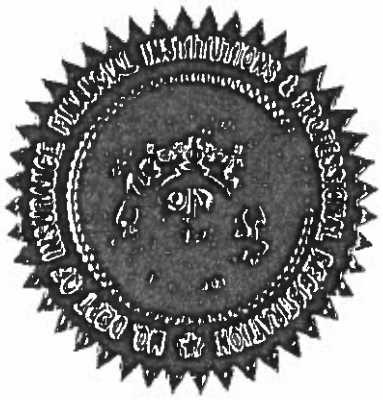
25. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that **Jeffrey Allen Jackson's** motor vehicle extended service contract producer license application is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 29th **DAY OF** January, **2016.**



JOHN M. HUFF, Director
Missouri Department of Insurance, Financial Institutions and Professional Registration

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 29th day of January 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:

Jeffrey Allen Jackson
16153 Country Cove St.
Wright City, Missouri 63390

Tracking No. 1Z0R15W84296908783

Kathryn Latimer

Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of February, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, Certified Mail, at the following address:

Jeffrey Allen Jackson
16153 Country Cove St.
Wright City, Missouri 63390

Certified No. 7012 3460 0002 8615 0768

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