



State of Missouri

**DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION**

IN RE:)
)
 JOHNATHAN LAMONT SANDERS,) **Case No. 141027698C**
)
 Applicant.)

ORDER REFUSING TO RENEW
A MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On November 20, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse the motor vehicle extended service contract producer license renewal application of Johnathan Lamont Sanders. After reviewing the Petition, 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. Johnathan Lamont Sanders (“Sanders”) is a Missouri resident with a mailing address of record of 4529 Athlone, St. Louis, MO 63115.
2. On January 1, 2012, the Department of Insurance, Financial Institutions and Professional Registration (“Department”) issued Sanders a motor vehicle extended service contract (“MVESC”) producer license, number 8088321, which expired on January 1, 2014.
3. On April 28, 2014, the Department received Sanders’s Application for Motor Vehicle Extended Service Contract Producer License Renewal (“Application”).
4. Sanders answered “No” to Background Information question 36.4 of the Application which asked:

Have you failed to pay state or federal income tax, which has not been previously reported to this insurance department?

Have you failed to comply with an administrative or court order directing payment of state or federal income tax, which has not been

previously reported to this insurance department?

Answer "Yes" if the answer to either question (or both) is "Yes."

If you answer yes, you must attach to this application:

- a) a written statement explaining the circumstances of each administrative or court order,
- b) copies of all relevant documents (i.e. demand letter from the Department of Revenue or Internal Revenue Service, etc.),
- c) a certified copy of each administrative or court order, judgment, and/or lien, and
- d) a certified copy of the official document which demonstrates the resolution of the tax delinquency (i.e. a tax compliance letter, etc.).

5. The Applicant's Certification and Attestation section of the Application, which Sanders accepted by his signature notarized April 23, 2014, provides, in relevant part:

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.

6. The Consumer Affairs Division ("Division") of the Department conducted an investigation and discovered, contrary to Sanders's sworn representation on his Application, that on March 5, 2012, the St. Louis County Circuit Court entered a judgment against Sanders for unpaid individual income tax for the years 2007 and 2008. The judgment remains unsatisfied and provides that a \$6,744.07 "assessment of tax, interest, additions to tax, penalties, and fees have been made and become final. Interest continues to accrue as provided by law until the full amount of the tax liability has been paid." *Dep't of Revenue v. Johnathan L. Sanders*, St. Louis Co. Cir. Ct., Case No. 12SL-MC03830.
7. Andrew Engler, a Special Investigator with the Division ("Special Investigator Engler"), mailed Sanders an inquiry letter on May 6, 2014 by first-class mail, postage prepaid, requesting information about Sanders's tax delinquency and "the current status of the lien along with evidence of a repayment arrangement or a letter of compliance" ("first inquiry letter"). The first inquiry letter further advised Sanders that his "response is due twenty days from the postmark of this letter, or on or before May 26, 2014" and that "[f]ailure to respond could result in a refusal to [renew] your MVESC license."

8. The first inquiry letter was not returned to the Division as undeliverable; therefore, Sanders is presumed to have received it.
9. On May 15, 2014, Sanders called the Division and advised Special Investigator Engler that the tax delinquency was caused by his failure to file Missouri individual income tax returns for the years 2007 and 2008.
10. Special Investigator Engler mailed Sanders another inquiry letter on July 14, 2014 by first-class mail, postage prepaid, requesting the same information as the inquiry letter ("second inquiry letter"). The second inquiry letter further advised Sanders that he was due "to respond by August 3, 2014" and that "[f]ailure to respond could result in a refusal to [renew] your MVESC license."
11. The second inquiry letter was not returned to the Division as undeliverable; therefore, Sanders is presumed to have received it.
12. The Division never received any correspondence or communication from Sanders regarding the second inquiry letter, nor did Sanders demonstrate reasonable justification for the delay.
13. The Division never received a letter of tax compliance from Sanders, or evidence of a repayment agreement between Sanders and the Missouri Department of Revenue, or evidence of satisfaction of the judgment in *Dep't of Revenue v. Johnathan L. Sanders*, St. Louis Co. Cir. Ct., Case No. 12SL-MC03830.
14. It is inferable, and hereby found as fact, that Sanders answered "No" to Background Information question 36.4 of the Application in order to misrepresent to the Director that he had no delinquent tax obligations and, accordingly, to improve the chance that the Director would act favorably on the Application and renew Sanders's MVESC producer license.

CONCLUSIONS OF LAW

15. Section 385.209.1, RSMo (Supp. 2013),¹ provides, in relevant part:

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

¹ All statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2013 RSMo Supplement, unless otherwise noted.

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;

(3) Obtained or attempted to obtain a license through material misrepresentation or fraud; [or]

* * *

(13) Failed to comply with any administrative or court order directing payment of state or federal income tax[.]

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

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. "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. E.D. 2000) (internal citation omitted).
18. 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 MVESC producer licensees, but to protect the public.
19. The Director may refuse to renew Sanders's MVESC producer license pursuant to § 385.209.1(2) because Sanders violated a rule of the Director, specifically 20 CSR 100-4.100(2)(A), when he did not respond to the Division's second inquiry letter within twenty days and did not demonstrate a reasonable justification for that delay.
20. The Director may refuse to renew Sanders's MVESC producer license pursuant to § 385.209.1(3) because Sanders has attempted to obtain a MVESC producer license through material misrepresentation or fraud, specifically by his sworn false answer to

Background Information question 36.4 of the Application, claiming that he had no state or federal income tax delinquencies.

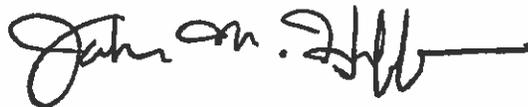
21. The Director may refuse to renew Sanders's MVESC producer license pursuant to § 385.209.1(13) because Sanders has failed to comply with an administrative or court order directing payment of Missouri individual income tax, as evinced by the unsatisfied judgment against him in *Dep't of Revenue v. Johnathan L. Sanders*, St. Louis Co. Cir. Ct., Case No. 12SL-MC03830.
22. The Director has considered Sanders's history and all of the circumstances surrounding Sanders's Application. Renewing Sanders's MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to renew Sanders's MVESC producer license.
23. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license renewal application of **Johnathan Lamont Sanders** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 24 DAY OF November, 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 25th day of November, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required service, at the following address:

Johnathan Lamont Sanders
4529 Athlone Avenue
Saint Louis, Missouri 63115-3130

No. 1Z0R15W84299197117



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