State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
LA'VONCE ANTHONY JAMES,	)	**Case No. 151222639C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On May 2, 2016, the Consumer Affairs Division, submitted a Petition to the Director alleging cause to refuse to issue a motor vehicle extended service contract producer license to La'Vonce Anthony James. 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. La'Vonce Anthony James ("James") is an Illinois resident with a residential and mailing address of 2109 Lincoln Ave., Granite City, Illinois 62040 and a business address of 3000 Little Hills Expressway, Suite 101, St. Charles, Missouri 63301.

2. On November 9, 2015, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received James's completed Application for Motor Vehicle Extended Service Contract Producer License ("Application").

3. Background Question No. 1 of the 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?
>
> "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.

4. James answered "Yes" in response to Background Question No. 1.

5. James attached two (2) letters and court records to his Application to further explain his response to Background Question No. 1.

6. In the first letter, James explained the circumstances surrounding his conviction of Criminal Damage to Government Supported Property, a Class Four Felony:

> Started off playing catch with a few guys, the ball hit a window in our apartment complex, the lady came out being disrespectful towards ME, not only me but my sisters, mother, & father. I let her words get the best of me and I couldn't take it know [sic] more so I busted the rest of her window out.

7. The court records James provided revealed that:

   a. On August 19, 2013, James pled guilty to and was convicted of Criminal Damage to Government Supported Property, a Class 4 Felony, in violation of 720 ILCS 5/21-1.01(a)(1).[1] The court sentenced James to supervised probation for one (1) year and ordered James to pay restitution. The Court Order of Probation notes that James's conviction will be reduced to a misdemeanor upon payment of restitution. As of April 2016, James has not paid his restitution as ordered. *Illinois v.*

[1] All criminal statutory references are to those contained in the Illinois Compiled Statutes under which the court rendered judgment.

La'Vonce Anthony James, Madison Co. Cir. Ct., Case No. 13-CF-1538.

8. In the second letter, James explained the circumstances surrounding his conviction of Unlawful Possession of Weapons by a Felon, a Class 3 Felony:

> The Damage to Gov. Property was a Class 4 felon [sic] which will be reduced once the restitution is paid. This charge was caused because me and my ex-girlfriend got into an argument. I decided to leave for a few. When I came back some of my things were outside, which was understandable, however I had a few more belongings in her house. I refused to leave until I had my things back, which made her call the cops. I waited until they arrived, as they were pulling up she threw our shotguns outside and made me look as if I was up to know [sic] good. ...

9. The court records James provided revealed that:

   a. On April 17, 2014, James pled guilty to and was convicted of Unlawful Possession of Weapons by a Felon, a Class 3 Felony, in violation of 720 ILCS 5/24-1.1(a). The court sentenced James to two (2) years supervised probation and ordered him to pay restitution. The Court Order of Probation notes that James's probation will be modified to unsupervised probation upon payment of restitution. As of April 2016, James has not paid his restitution as ordered. *Illinois v. La'Vonce Anthony James*, Madison Co. Cir. Ct., Case No. 14-CF-698.

10. In the section of the Application titled "Employment History," James was directed to:

> Account for all time for the past five years. List all employment experience starting with your current employer working back five years. Include full and part-time work, self-employment, military service, unemployment and full-time education.

11. In response, James provided that he has been employed with "National Vehicle Protection Services, Inc." in St. Charles, Missouri since October 2015, but failed to disclose the position that he holds. Dealership Warranties, Inc. d/b/a National Vehicle Protection Services is licensed by the Department as a motor vehicle extended service contract ("MVESC") business entity producer, license number 8160344.

12. On February 25, 2016, Special Investigator Andrew Engler, of the Consumer Affairs Division ("Division") of the Department sent an inquiry letter to James at his residential and mailing address of record. The inquiry letter requested a statement from James explaining his job title and job duties at National Vehicle Protection Services. The inquiry letter further requested a response within twenty (20) days and warned James that a failure to respond could result in the Department refusing to issue him a MVESC producer license.

13. The United States Postal Service did not return the February 25, 2016 inquiry letter to the Division as undeliverable, and therefore it is presumed received by James.

14. James failed to respond to the Division's February 25, 2016 inquiry letter, and failed to demonstrate a reasonable justification for the delay.

CONCLUSIONS OF LAW

15. Section 385.209 RSMo (Supp. 2013)[2] 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:
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> * * *
>
> (2) Violated any provision in section 385.200 to 385.220, or violated any rule, subpoena or order of the director; [or]
>
> * * *
>
> (5) Been convicted of any felony[.]

16. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries by the Consumer Affairs Division 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. 2000) (internal citations omitted).

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

18. The Director may refuse to issue a MVESC producer license to James pursuant to § 385.209.1(2) because James failed to respond to an inquiry letter from the Division and failed to provide a reasonable justification for the delay, thereby violating 20 CSR 100-4.100(2)(A), a rule of the Director.

19. The Director may refuse to issue a MVESC producer license to James pursuant to § 385.209.1(5) because James has been convicted of two (2) felonies:

    a. Criminal Damage to Government Supported Property, a Class 4 Felony. *Illinois v. La'Vonce Anthony James*, Madison Co. Cir. Ct., Case No. 13-CF-1538.

    b. Unlawful Possession of Weapons by a Felon, a Class 3 Felony. *Illinois v. La'Vonce Anthony James*, Madison Co. Cir. Ct., Case No. 14-CF-698.

20. Each felony conviction is a separate and sufficient ground for refusal pursuant to § 385.209.1(5).

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

22. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that **La'Vonce Anthony James's** motor vehicle extended service contract producer license application is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 2ND **DAY OF** MAY**, 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 2nd day of May, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by United Parcel Service, signature required, to the following address:

La'Vonce Anthony James
2109 Lincoln Ave.
Granite City, Illinois 62040

Tracking No. 1Z0R15W84296909906

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