State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
LATASHA DENISE MARTIN,	)	**Case No. 141204770C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On April 20, 2015, 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 Latasha Denise Martin. 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. Latasha Denise Martin ("Martin") is a Missouri resident with a residential address of 1340 Kyle Dr., St. Charles, Missouri, 63304.

2. The Department of Insurance, Financial Institutions and Professional Registration ("Department") issued a Motor Vehicle Extended Service Contract ("MVESC") Producer License, License No. 8098244, to Martin on February 3, 2012. Martin's license terminated on February 3, 2014.

3. The Department received Martin's completed Application for Motor Vehicle Extended Service Contract Producer License ("Application") on September 22, 2014.

4. 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.

5. Martin signed the Application in the "Applicant's Certification and Attestation" section

under oath and before a notary.

6. 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.

7. Martin marked "No" to Background Question No. 1 on her Application.

8. Contrary to Martin's "No" answer to Background Question No. 1, investigation by the Consumer Affairs Division ("Division") of Martin's Application revealed the following criminal background:[1]

---

[1] After Martin submitted her Application, the St. Charles County prosecutor charged Martin with the Class D Felony of Driving While Revoked/Suspended. *State v. Latasha D. Martin*, St. Charles Co. Cir. Ct., Case No. 1411-CR06251. The court set the case for a disposition hearing on April 28, 2015. *Id.* Also after she submitted her Application, the prosecutor charged Martin with three (3) Class D Felonies of Driving While Revoked/Suspended. *State v. Latasha D. Martin*, St. Charles Co. Cir. Ct., Case No. 1511-CR00638. The court set this case for disposition hearing on April 29, 2015. *Id.*

a. On October 11, 2012, Martin pled guilty to four (4) counts of the Class B Felony of Distribution of a Controlled Substance (cocaine), all in violation of §§ 562.036, 562.041, and 195.211 RSMo. The court sentenced Martin to nine years' incarceration for each felony conviction, sentences to run concurrently, but suspended the execution of sentence and placed her on five years' supervised probation, with 30 days shock time, and ordered her to complete React Assessment. *State v. Latasha D. Martin*, St. Charles Co. Cir. Ct., Case No. 1211-CR03034-01.

b. On June 25, 2014, the St. Charles County prosecuting attorney charged Martin by Information with Receiving Stolen Property, a Class A Misdemeanor, in violation of § 570.080 RSMo. The court set the case for disposition hearing on April 27, 2015. *State of Missouri v. Latasha D. Martin*, St. Charles Co. Cir. Ct., Case No. 1411-CR03817.

9. Although Martin held a license when she was charged with and pled guilty to four (4) Class B Felonies of Distribution of a Controlled Substance (cocaine), Martin failed to report the felony proceeding or her convictions to the Director within thirty days of the initial pretrial hearing date or arraignment. *State v. Latasha D. Martin*, St. Charles Co. Cir. Ct., Case No. 1211-CR03034-01. In fact, Martin never reported the felony proceeding or her four (4) felony convictions to the Director.

10. On September 29, 2014, Special Investigator Andrew Engler ("Engler"), with the Division, mailed an inquiry letter to Martin at her address of record. The inquiry letter requested documentation and additional information surrounding Martin's felony convictions and the criminal charges that she failed to disclose on her Application.

11. The United States Postal Service did not return the September 29, 2014 inquiry letter to the Division, and therefore, it is presumed received by Martin.

12. Martin failed to provide a written response to the Division's September 29, 2014 inquiry letter and failed to demonstrate a reasonable justification for the delay.

13. On October 21, 2014, Special Investigator Engler mailed a second inquiry letter to Martin. The inquiry letter requested the same documentation and additional information requested in the September 29, 2014 inquiry letter.

14. The United States Postal Service did not return the October 21, 2014 inquiry letter to the Division, and therefore, it is presumed received by Martin.

15. Martin failed to provide a written response to the Division's October 21, 2014 inquiry letter and failed to demonstrate a reasonable justification for the delay.

16. It is inferable, and hereby found as fact, that Martin falsely answered the criminal background question in order to misrepresent to the Director her criminal history and thereby to improve her chances that the Director would issue her an MVESC producer license.

CONCLUSIONS OF LAW

17. Section 385.209 RSMo (Supp. 2013) 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:
>
> * * *
>
> (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 file, the order resulting from the hearing and any other relevant legal documents.

18. 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.

19. "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).

20. 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 MVESC producer license, but to protect the public.

21. The Director may refuse to issue Martin an MVESC producer license pursuant to § 385.209.1(2) because Martin failed to adequately respond to two inquiry letters from the Division and failed to provide a reasonable justification for the delay, thereby violating 20 CSR 100-4.100(2)(A), a Department regulation.

22. Each violation of 20 CSR 100-4.100(2)(A) is a separate and sufficient cause to refuse Martin's MVESC producer license under § 385.209.1(2).

23. The Director may refuse to issue Martin an MVESC producer license pursuant to § 385.209.1(2), for violating § 385.209.7, because Martin failed to report to the Director, within 30 days of the initial pretrial hearing date or arraignment, the felony proceeding in *State v. Latasha D. Martin*, St. Charles Co. Cir. Ct., Case No. 1211-CR03034-01 (Martin pled guilty to and was convicted of four Class B Felonies of Distribution of a Controlled Substance). In fact, Martin never reported the four Class B Felony convictions to the Director.

24. The Director may refuse to issue Martin an MVESC 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 criminal background on her Application:

    a. Conviction of four Class B Felonies of Distribution of a Controlled Substance. *State v. Latasha D. Martin*, St. Charles Co. Cir. Ct., Case No. 1211-CR03034-01; and

    b. Charge of Receiving Stolen Property, Class A Misdemeanor. *State of Missouri v. Latasha D. Martin*, St. Charles Co. Cir. Ct., Case No. 1411-CR03817.

25. The Director may refuse to issue Martin an MVESC producer license pursuant to § 385.209.1(5) because she has been convicted of four felonies:

    a. Four Class B Felonies of Distribution of a Controlled Substance. *State v. Latasha D. Martin*, St. Charles Co. Cir. Ct., Case No. 1211-CR03034-01.

26. Each felony is a separate and sufficient cause to refuse Martin's MVESC producer license under § 385.209.1(5).

27. The Director has considered Martin's history and all of the circumstances surrounding her Application. Issuing Martin an MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue Martin an MVESC producer license.

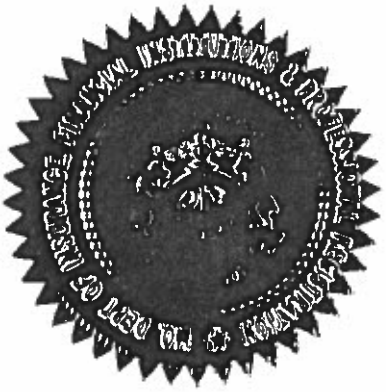
28. This Order is in the public interest.

ORDER

IT IS THEREFORE ordered that the motor vehicle extended service contract producer license application of Latasha Denise Martin is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 21 DAY OF April, 2015.



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 22nd day of April, 2015 a copy of the foregoing Order and Notice was served upon the Applicant by UPS, signature required, at the following address:

Latasha Denise Martin
1340 Kyle Dr.
St. Charles, MO 63304

Tracking No. 1Z0R15W84293303173

Kathryn Latimer

Kathryn Latimer
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.latimer@insurance.mo.gov