State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
LESLIE ERNEST MORGAN,	)	**Case No. 140429432C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On May 22, 2014, 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 Leslie Ernest Morgan. 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. Leslie Ernest Morgan ("Morgan") is a Missouri resident with a residential address of record of 13114 Brendan Wood Drive, Florissant, Missouri 63033.

2. On August 13, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Morgan's Application for Motor Vehicle Extended Service Contract Producer License ("Application").

3. The "Applicant's Certification and Attestation" section of the Application, states, in pertinent 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.

4. Morgan accepted the "Applicant's Certification and Attestation" section by his signature dated June 17, 2013.

5. Background Information Question Number 4 of the Application asks the following:

   Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?

6. Morgan answered "No" in response to Background Information Question Number 4.

7. On February 14, 2012, the St. Louis County Circuit Court entered a judgment against Morgan and Yolanda D. Morgan for unpaid taxes related to the 2009 and 2010 filing periods as follows:

   > The Director of Revenue, under Section 143.902, RSMo, hereby certifies that the [$2,826.66] 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 is paid.

   Department of Revenue v. Leslie E. Morgan et al., St. Louis. Co. Cir. Ct., Case No. 12SL-MC02910.

8. On March 26, 2012, the St. Louis County Circuit Court entered a judgment against Morgan for unpaid taxes related to the 2004 filing period as follows:

   > The Director of Revenue, under Section 143.902, RSMo, hereby certifies that the [$992.54] 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 is paid.

   Department of Revenue v. Leslie E. Morgan, St. Louis. Co. Cir. Ct., Case No. 12SL-MC06290.

9. In addition, during his investigation Special Investigator Andrew P. Engler ("Special Investigator Engler"), Consumer Affairs Division ("Division"), discovered that the Missouri Department of Revenue's records indicate as of March 27, 2014 (computed with interest through March 31, 2014) that Morgan owes state income taxes in the amounts of $1,886.85 for the 2005 filing period, $2,622.78 for the 2006 filing period, $1,133.70 for the 2007 filing period, and $193.18 for the 2011 filing period.

10. After reviewing Morgan's Application, Special Investigator Engler mailed an inquiry letter to Morgan by first class mail dated September 18, 2013. The letter requested additional documentation and information about Morgan's outstanding income tax liability. The letter further requested a response by October 10, 2013, and warned that "[f]ailure to respond could result in a refusal to issue [Morgan's] MVESC license."

11. The September 18, 2013 inquiry letter was mailed to the address Morgan provided on the Application, which is the same address specified in paragraph 1 herein. The United States Postal Service did not return the inquiry letter to the Division as undeliverable. Therefore, it is presumed delivered.

12. Morgan failed to provide a response to the Division's September 18, 2013 inquiry letter by October 10, 2013, and failed to demonstrate a reasonable justification for the delay.

CONCLUSIONS OF LAW

13. Section 385.209 RSMo. (Supp. 2013)[1] provides, in pertinent 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 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;
>
> * * *
>
> (13) Failed to comply with any administrative or court order directing payment of state or federal income tax[.]

14. Title 20 CSR 100-4.100(2)(A) provides, in pertinent part:

> 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

[1] All statutory references are to RSMo. (2000) as updated by RSMo. (Supp. 2013) unless otherwise noted.

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.

15. "[I]f not returned, the sender [of a letter may] presume that it was received where there is no question about the correctness of the address." *Schlereth v. Hardy*, 280 S.W.3d 47, 51 (Mo. banc 2009).

16. 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 motor vehicle extended service contract ("MVESC") producer license, but to protect the public.

17. The Director may refuse to issue a MVESC producer license to Morgan under § 385.209.1(2) because Morgan 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 Department regulation.

18. The Director may refuse to issue a MVESC producer license to Morgan under § 385.209.1(3) because Morgan attempted to obtain a MVESC producer license through material misrepresentation or fraud. Morgan falsely answered "No" to Background Information Question Number 4 of the Application and failed to disclose his outstanding state income tax liabilities in order to misrepresent to the Director that he had no delinquent tax obligations, and, accordingly, in order to improve the chances that the Director would approve his Application and issue a MVESC producer license to Morgan.

19. The Director may refuse to issue a MVESC producer license to Morgan under § 385.209.1(13) because Morgan has failed to comply with two court orders directing payment of delinquent state income tax:

    a. *Department of Revenue v. Leslie E. Morgan et al.*, St. Louis. Co. Cir. Ct., Case No. 12SL-MC02910; and

    b. *Department of Revenue v. Leslie E. Morgan*, St. Louis. Co. Cir. Ct., Case No. 12SL-MC06290.

20. Each failure to comply with an administrative or court order directing payment of state income taxes is a separate and sufficient cause for refusal pursuant to § 385.209.1(13).

21. The Director has considered Morgan's history and all of the circumstances surrounding Morgan's Application. Granting Morgan 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 Morgan.

22. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Leslie Ernest Morgan** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 23RD **DAY OF** MAY**, 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 23rd day of May, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Leslie Ernest Morgan
13114 Brendan Wood Drive
Florissant, Missouri 63033

No. 1ZE63A290396451174

Kimberly Landers

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