FINAL ORDER EFFECTIVE 2-8-2016

State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
LATASHA N. SAMS,	)	**Case No. 150930457C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On November 2, 2015, the Consumer Affairs Division, through counsel, submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract producer license to Latasha N. Sams. 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 N. Sams ("Sams") is a Missouri resident with a residential address of 860 Dawnview Court, St. Louis, Missouri 63031.

2. On July 31, 2015, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Sams'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 July 22, 2015, Sams 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. Sams answered "No" in response to Background Question No. 1.

7. Contrary to Sams's "No" answer to Background Question No. 1, the Consumer Affairs Division's ("Division") investigation into Sams's Application revealed the following criminal history:

   a. On November 9, 2009, Sams pled guilty to Receiving Stolen Property – Less Than $500, a Class A Misdemeanor, in violation of § 570.080 RSMo.[1] The court suspended the imposition of sentence, placed Sams on two (2) years' supervised probation, and ordered that she complete 80 hours of community service, maintain full time employment or school, and have no contact with the

[1] All criminal statutory references are to those contained in the version of the Revised Statutes of Missouri under which the court rendered judgment.

Chesterfield Mall. *State v. Latasha Sams*, St. Louis Co. Cir. Ct., Case No. 08SL-CR03334.

8. On August 5, 2015, Special Investigator Andrew Engler, with the Division, sent an inquiry letter to Sams at her address of record by first class mail via the United States Postal Service. Said inquiry letter requested a statement explaining the circumstances surrounding Sams's criminal history and why she failed to disclose it on her Application. The letter also requested certified copies of the Information, Complaint or other charging documents in the criminal matter. The inquiry letter further requested a response within twenty days, and warned Sams that a failure to respond could result in the Department refusing to issue her a motor vehicle extended service contract ("MVESC") producer license.

9. The United States Postal Service did not return the August 5, 2015 inquiry letter to the Division, and therefore it is presumed received by Sams.

10. Sams failed to respond to the Division's August 5, 2015 inquiry letter and failed to demonstrate a reasonable justification for the delay.

11. On August 26, 2015, Special Investigator Engler sent a second inquiry letter to Sams at her address of record by first class mail via the United States Postal Service. Said inquiry letter requested the same information and documentation previously requested in the August 5, 2015 inquiry letter. The inquiry letter further requested a response within twenty days, and warned Sams that a failure to respond could result in the Department refusing to issue her a MVESC producer license.

12. The United States Postal Service did not return the August 26, 2015 inquiry letter to the Division, and therefore it is presumed received by Sams.

13. Sams failed to respond to the Division's August 26, 2015 inquiry letter and failed to demonstrate a reasonable justification for the delay.

14. It is inferable, and hereby found as fact, that Sams falsely answered "No" to Background Question No. 1 in order to misrepresent to the Director that she had no criminal history and, accordingly, in order to improve the chances the Director would approve her Application and issue her a MVESC producer license.

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

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

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) 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).

18. The Director may refuse to issue Sams a MVESC producer license pursuant to § 385.209.1(2) because Sams twice violated a rule of the Director, namely 20 CSR 100-4.100(2)(A), in that Sams failed to respond to two (2) written inquiries from the Division and failed to demonstrate reasonable justification for the delays.

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

20. The Director also may refuse to issue Sams a MVESC producer license pursuant to § 385.209.1(3) because she attempted to obtain a license through material misrepresentation or fraud in that Sams falsely answered "No" to Question No. 1 and failed to disclose her suspended imposition of sentence for Receiving Stolen Property – Less Than $500, a Class A Misdemeanor. *State v. Latasha Sams*, St. Louis Co. Cir. Ct., Case No. 08SL-CR03334.

21. By being untruthful on her Application and failing to respond to inquiries from the Division, Sams has shown a disregard for the regulator from whom she seeks a license.

22. The Director has considered Sams's history and all of the circumstances surrounding her Application. Granting Sams 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 Sams.

23. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that **Latasha N. Sams's** motor vehicle extended service contract producer license application is hereby **REFUSED.**

SO ORDERED.

WITNESS MY HAND THIS 16th **DAY OF** November, **2015.**

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 9th day of November, 2015, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Latasha N. Sams
860 Dawnview Court
St. Louis, Missouri 63031

Tracking No. 1Z0R15W84299027907

Kimberly Landers, 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: kimberly.landers@insurance.mo.gov

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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of November, 2015, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, certified mail, at the following address:

Latasha N. Sams
860 Dawnview Court
Florissant, Missouri 63031

Certified No. 7013 2630 0002 1549 3248

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

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CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of January, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, first class mail, at the following address:

Latasha N. Sams
860 Dawnview Court
Florissant, Missouri 63031

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

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I hereby certify that on this 7th 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:

Latasha N. Sams
831 Parkcrest Dr. Apt. B
St. Charles, MO 63301

Tracking No. 1Z0R15W84296281147

Kathryn Latimer

Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
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301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.2619
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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of January, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS certified mail, signature required, at the following address:

Latasha N. Sams
831 Parkcrest Dr. Apt. B
St. Charles, MO 63301

Certified No. 7014 2870 0000 5288 7762

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

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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of February, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, first class mail, at the following address:

Latasha N. Sams
831 Parkcrest Dr. Apt. B
St. Charles, MO 63301

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