State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
MICHAEL JOHN GRIFFIN,	)	**Case No. 151112502C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On December 8, 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 Michael John Griffin. After reviewing the Petition and the Investigative Report, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Michael John Griffin ("Griffin") is a Missouri resident with a residential address of 815 Sherwood Ct., Florissant, Missouri 63031.

2. On August 12, 2015, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Griffin'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 August 7, 2015, Griffin 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. Griffin marked "No" to Background Question No. 1 on his Application.

7. Contrary to Griffin's answer to Background Question No. 1 on his Application, the Consumer Affairs Division's ("Division") investigation revealed the following criminal history that Griffin failed to disclose:

   a. On October 20, 2010, Griffin pled guilty to Assault 3rd Degree - Domestic, a Class A Misdemeanor, in violation of § 565.074.[1] The court suspended the imposition of sentence and placed Griffin on two (2) years' supervised probation. *State v. Michael Griffin*, Jefferson Co. Cir. Ct., Case No. 10JE-CR02799.

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

8. On August 19, 2015, Special Investigator Andrew Engler ("Engler") with the Division sent an inquiry letter to Griffin via first class mail at his residential address of record. The inquiry letter requested a statement explaining the circumstances surrounding his domestic assault charge and why he failed to disclose it on his application, and requested a certified copy of the Information, Complaint or other charging document in the criminal matter. The inquiry letter further cited 20 CSR 100-4.100, requested a response within twenty days, and warned Griffin that failure to respond could result in the Department refusing to issue him a motor vehicle extended service contract ("MVESC") producer license.

9. The August 19, 2015 inquiry letter sent to Griffin by first class mail was not returned as undeliverable, and is therefore presumed received by Griffin.

10. Griffin did not respond to the Division's August 19, 2015 inquiry letter, nor did he demonstrate a reasonable justification for the delay.

11. On September 8, 2015, Special Investigator Engler sent a second inquiry letter to Griffin via first class mail to his residential address of record. The inquiry letter asked for the same information and documentation previously requested in the August 19, 2015 inquiry letter. The inquiry letter again cited 20 CSR 100-4.100, requested a response within twenty days, and warned Griffin that a failure to respond could result in the Department refusing to issue him a MVESC producer license.

12. The September 8, 2015 inquiry letter sent to Griffin by first class mail was not returned as undeliverable, and is therefore presumed received by Griffin.

13. Griffin did not respond to the Division's September 8, 2015 inquiry letter, nor did he demonstrate a reasonable justification for the delay.

14. It is inferable, and hereby found as fact, that Griffin failed to disclose his criminal history in response to Background Question No. 1 on his Application in order to misrepresent to the Director that he had no criminal history and therefore to improve the likelihood that the Director would approve his Application and issue him a MVESC producer license.

CONCLUSIONS OF LAW

15. Section 385.209 RSMo (Supp. 2013)[2] provides, 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

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

16. Title 20 CSR 100-4.100(2)(A) states, in relevant 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 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. Title 20 CSR 100-4.100(2)(A) is a rule of the Director.

18. "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).

19. The Director has cause to refuse to issue a MVESC producer license to Griffin pursuant to § 385.209.1(2) because Griffin twice violated a rule of the Director, namely 20 CSR 100-4.100(2)(A), when he failed to respond to two written inquiries from the Division and failed to demonstrate reasonable justifications for the delays.

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

21. The Director has cause to refuse to issue a MVESC producer license to Griffin pursuant to § 385.209.1(3) because Griffin attempted to obtain a MVESC producer license through material misrepresentation or fraud when he failed to disclose the following criminal history in response to Background Question No. 1 on his Application:

    a. Assault 3rd Degree - Domestic, a Class A Misdemeanor. *State v. Michael Griffin*, Jefferson Co. Cir. Ct., Case No. 10JE-CR02799.

22. By being untruthful on his Application and failing to respond to inquiries from the Division, Griffin has shown a disregard for the regulator from whom he seeks a license.

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

24. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that **Michael John Griffin's** motor vehicle extended service contract producer license application is hereby **REFUSED.**

SO ORDERED.

WITNESS MY HAND THIS 9th **DAY OF** DECEMBER**, 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 December, 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:

Michael John Griffin
815 Sherwood Ct.
Florissant, Missouri 63031

Tracking No. 1Z0R15W84296638155

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