State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
Kirsten K. Morton,	)	**Case No. 120224225C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On April 18, 2012, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue Kirsten K. Morton's motor vehicle extended service contract producer license insurance producer license. 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. Kirsten K. Morton, ("Morton") is a Missouri resident with a residential address of 11 Wistar Way, O'Fallon, Missouri 63366.

2. On or about November 7, 2007, Morton pleaded guilty to the class C Felony of Passing Bad Check in violation of §570.120 RSMo Supp. 2005. The court suspended the imposition of sentence and ordered that Morton complete five years probation. On October 29, 2008, Morton confessed that she violated probation. The court revoked Morton's probation. On December 18, 2008, the court found that Morton violated probation, sentenced her to six years confinement, suspended the execution of that sentence, and ordered Morton to complete five years supervised probation and the St. Charles County Drug Court Program. On September 16, 2009, Morton again confessed that she violated probation. The court revoked Morton's probation. On or about November 12, 2009, the Court sentenced Morton to the custody of the Missouri Department of Corrections for a period of six years, and a 120 day program pursuant to §559.115. On February 25, 2010, after completing the 120 day program, Morton received a suspended execution of sentence, and the Court placed her on supervised probation for a period of five years beginning on March 13, 2010. Morton's probation is scheduled to be completed in March 2015. *State v. Kirsten Kay Morton*, St. Charles Co. Cir. Ct., Case No. 0611-CR04512-01.

3. On December 15, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Morton's Application for Motor

Vehicle Extended Service Contract Producer License ("Application").

4. On January 30, 2012, the St. Charles County Circuit Court entered a judgment against Morton as follows:

> [Department of Revenue] hereby certifies that the following assessment of individual income tax, interest, additions to tax, penalties, and fees have been made and become final in the amount of $9678.76. Interest continues to acrue [sic] as provided by law until the full amount of the tax liability is paid.

Department of Revenue v. Kirsten K. Morton, St. Charles Co. Cir. Ct., Case No. 1211-MC00760.

5. Morton has not satisfied the judgment in *Department of Revenue v. Kirsten K. Morton*, St. Charles Co. Cir. Ct., Case No. 1211-MC00760.

CONCLUSIONS OF LAW

6. Section 385.209 RSMo Supp. 2011, 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:
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> * * *
>
> (5) Been convicted of any felony;
>
> * * *
>
> (13) Failed to comply with any administrative or court order directing payment of state or federal income tax[.]

7. Section 570.120 RSMo Supp. 2005, provides, in relevant part:

> 1. A person commits the crime of passing a bad check when:
>
> (1) With purpose to defraud, the person makes, issues or passes a check or other similar sight order or any other form of presentment involving the transmission of account information for the payment of money, knowing that it will not be paid by the drawee, or that there is no such drawee; or

(2) The person makes, issues, or passes a check or other similar sight order or any other form of presentment involving the transmission of account information for the payment of money, knowing that there are insufficient funds in or on deposit with that account for the payment of such check, sight order, or other form of presentment involving the transmission of account information in full and all other checks, sight orders, or other forms of presentment involving the transmission of account information upon such funds then outstanding, or that there is no such account or no drawee and fails to pay the check or sight order or other form of presentment involving the transmission of account information within ten days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.

8. 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 producer license, but to protect the public.

9. Morton may be refused a motor vehicle extended service contract ("MVESC") producer license pursuant to §385.209.1(5) because she has been convicted of a felony, Passing Bad Check. *State v. Kirsten Kay Morton*, St. Charles Co. Cir. Ct., Case No. 0611-CR04512-01.

10. Morton may be refused a MVESC producer license pursuant to §385.209(13) because she has failed to comply with an administrative or court order directing payment of state income taxes. *Department of Revenue v. Kirsten K. Morton*, St. Charles Co. Cir. Ct., Case No. 1211-MC00760.

11. Morton has a felony conviction and has failed to comply with an administrative and/or court order directing payment of state income taxes. Granting Morton a MVESC producer license would not be in the interest of the public. For all of the reasons given in this Order, the Director has considered Morton's history and all of the circumstances surrounding Morton's Application and exercises his discretion to refuse Morton's MVESC producer license.

12. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service producer license application of **Kirsten K. Morton** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 23RD DAY OF APRIL, 2012.

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 24th day of April, 2012 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular and certified mail at the following addresses:

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11 Wistar Way
O'Fallon, Missouri 63366

Certified No. 7009 3410 0001 8931 2998

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O'Fallon, Missouri 63368

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