



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

NINA M. SCHURMAN,

Applicant.

)
)
)
)
)

Case No. 199597

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On November 18, 2013, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract (MVESC) producer license to Nina M. Schurman. 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. Nina M. Schurman ("Schurman") is a Missouri resident with a residential address of record of 10075 Coburglands Drive, Bellefontaine, Missouri, 63137.
2. On April 26, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Schurman's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. Background Question No. 1 of the Application asks the following:

Have you ever been convicted of a crime, had a judgement withheld or deferred, or are you currently charged with committing a crime?

"Crime" includes a misdemeanor, felony or a military offense. You may exclude misdemeanor traffic citations or convictions involving driving under the influence (DUI) or driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license or juvenile offenses. "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, or having been given probation, a suspended sentence or a fine.

"Had a judgement withheld or deferred" includes circumstances in which a guilty plea was entered and/or a finding of guilt is 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”).

If you answer yes, you must attach to this application:

- a) a written statement explaining the circumstances of each incident,
- b) a copy of the charging document, and
- c) a copy of the official document which demonstrates the resolution of the charges or any final judgement[.]

4. Schurman answered “No” to Question No. 1. Schurman did not disclose any criminal history in her Application.
5. Contrary to Schurman’s “No” answer to Question No. 1, the Consumer Affairs Division’s investigation of Schurman’s Application revealed that on December 2, 2008, Schurman pleaded guilty in the Shannon County Circuit Court to the Class C Felony of Possession of a Controlled Substance, a violation of § 195.202.¹ According to the Information filed in the case, Schurman was found in possession of psilocybin mushrooms. The court suspended the imposition of sentence and placed Schurman on three years’ probation. On July 27, 2010, Schurman’s probation was revoked, but then continued for an additional three years with the additional condition that she complete a post-conviction drug program. On July 25, 2013, the court found that Schurman had again violated her parole and issued a *capias* warrant for Schurman, but the court has not yet changed the status of her parole as a result of the violation.²
6. It is inferable, and is hereby found as fact, that Schurman falsely answered “No” to Question No. 1 and failed to disclose her guilty plea to the Class C Felony of Possession of a Controlled Substance in her Application in order to misrepresent to the Director that she had no criminal history, and, accordingly, in order to improve the chances that the Director would approve her Application and issue her an MVEESC producer license.
7. On May 21, 2013, Consumer Affairs Division investigator Julie Hesser mailed an inquiry letter to Schurman, requesting a detailed explanation of her guilty plea to the Class C Felony of Possession of a Controlled Substance and the circumstances surrounding the crime, and requesting certified copies of court documents related to the conviction.
8. Hesser mailed the May 21, 2013 letter by first class mail, to Schurman’s address of record, with sufficient postage attached.
9. The May 21, 2013 letter was not returned as undeliverable.
10. Schurman never responded to the May 21, 2013 letter and has not demonstrated any

¹ References to this statute are to the version in the Revised Statutes of Missouri under which Schurman pleaded guilty.

² *State of Missouri v. Nina Marie Schurman*, Shannon Co. Cir. Ct., No. 07AN-CR01169-01.

justification for her failure to respond.

11. On June 13, 2013, Hesser mailed a second inquiry letter to Schurman, again requesting a detailed explanation of her guilty plea to the Class C Felony of Possession of a Controlled Substance and the circumstances surrounding the crime, and again requesting certified copies of court documents related to the conviction.
12. Hesser mailed the June 13, 2013 letter by first class mail, to Schurman's address of record, with sufficient postage attached.
13. The June 13, 2013 letter was not returned as undeliverable.
14. Schurman never responded to the June 13, 2013 letter and has not demonstrated any justification for her failure to respond.

CONCLUSIONS OF LAW

15. Section 385.209 RSMo, Supp. 2012, 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[.]

16. Regulation 20 CSR 100-4.100(2) states:

- (2) Except as required under subsection (2)(B)—

- (A) 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.

- (B) This rule shall not apply to any other statute or regulation which requires a

different time period for a person to respond to an inquiry by the department. If another statute or regulation requires a shorter response time, the shorter response time shall be met. This regulation operates only in the absence of any other applicable laws.

17. 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.
18. The Director may refuse to issue an MVESC producer license to Schurman under § 385.209.1(3) because Schurman attempted to obtain an MVESC producer license through material misrepresentation or fraud. Schurman falsely answered "No" to Question No. 1 and failed to disclose her guilty plea to the Class C Felony of Possession of a Controlled Substance in her Application in order to misrepresent to the Director that she had no criminal history, and, accordingly, in order to improve the chances that the Director would approve her Application and issue her an MVESC producer license.
19. The Director also may refuse to issue an MVESC producer license to Schurman under § 385.209.1(2) because Schurman violated a rule of the Director, in that she failed to adequately respond to two written inquiries from the Consumer Affairs Division—mailed on May 21, 2013, and June 13, 2013—without demonstrating reasonable justification for either of her failures to respond, each time thereby violating regulation 20 CSR 100-4.100(2), which is a rule of the Director.
20. The Director has considered Schurman's history and all of the circumstances surrounding Schurman's Application. Granting Schurman an 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 Schurman.
21. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Nina M. Schurman** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 19TH DAY OF NOVEMBER, 2013.




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 21st day of November, 2013, 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:

Nina M. Schurman
10075 Coburglands Drive
Bellefontaine, Missouri 63137

Certified No. 7009 3410 0001 9255
0547

Angie Gross

Angie Gross
Senior Office Support Assistant
Investigations Section
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.1922
Facsimile: 573.522.3630
Email: angie.gross@insurance.mo.gov